

**REPORT OF THE NEW JERSEY LEGISLATIVE SELECT  
OVERSIGHT COMMITTEE CONCERNING THE HIRING  
OF ALBERT J. ALVAREZ AS CHIEF OF STAFF AT THE  
NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY**

June 5, 2019

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*This was sort of a unique hiring for me. I mean, normally when we hire somebody at the SDA we have them come in, fill out a form, go through the process, get interviewed. And then we do a background check on the individual. I don't think that that was the process that we used here. I think he just landed on our door, and then he went to HR to fill out whatever records it was that HR filled out. But this was-- As I said, this was a unique hiring for us.*

- Charles McKenna, Former CEO, New Jersey Schools Development Authority, on the hiring of Albert J. Alvarez as his chief of staff in January 2018 (Dec. 18, 2018 Tr. at 97)

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## **INTRODUCTION**

On October 14, 2018, the Wall Street Journal published a story detailing Katherine Brennan’s allegation that Albert J. Alvarez sexually assaulted her in April 2017 following a going away party for a member of the Murphy for Governor campaign.<sup>1</sup> At the time, Mr. Alvarez was working as a senior staffer on the campaign. He went on to serve as deputy director of personnel for the Governor’s transition team and then as chief of staff at the New Jersey Schools Development Authority (“SDA”). Ms. Brennan volunteered on the Murphy for Governor campaign, served on a transition advisory committee, and went on to serve, and continues to serve, as chief of staff at the New Jersey Housing and Mortgage Finance Agency (“HMFA”).

Shortly after the alleged assault, Ms. Brennan confided in her husband (who was in Sweden) and two close friends—Katy Baldwin and Justin Braz—that Mr. Alvarez raped her. She also sent a letter to Mr. Alvarez stating that the incident constituted a “sexual assault” and asking that he “refrain from contacting [her] ever again.” (BRENNAN0001) In the days, weeks, and months that followed, she also spoke with the Jersey City Police Department,

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<sup>1</sup> Kate King, *A Sexual-Assault Accusation in New Jersey Spotlights a National Dilemma*, Wall Street Journal, Oct. 14, 2018.

the Hudson County Prosecutor's Office, the gubernatorial transition team, the deputy chief counsel to the Governor, and the chief counsel to the Governor. After those efforts failed, she went directly to the Governor and the First Lady. She only reached out to the Wall Street Journal after the administration failed to adequately respond to her serious concerns. During our hearings, the witnesses who know Ms. Brennan well—Justin Braz, Parimal Garg, and Matthew Platkin—all testified that they believed her.

Mr. Alvarez strongly denies Ms. Brennan's allegation of sexual assault and has consistently claimed that the sexual contact was consensual. The Hudson County Prosecutor's Office, and later the Middlesex County Prosecutor's Office, investigated the matter and determined that there was insufficient evidence to criminally charge Mr. Alvarez. The Attorney General's Office reviewed the case files and concurred with the decisions not to seek charges. According to the testimony, Mr. Alvarez was a "fine employee" who "did his job," and there were no complaints against him for sexual misconduct while he was at the SDA. (Dec. 18, 2018 Tr. at 115-16)

The Wall Street Journal article raised many questions, including what the Murphy administration knew about the sexual assault allegation when it hired Mr. Alvarez to serve as chief of staff at the SDA, and why Mr. Alvarez

stayed in that position for months after senior administration officials told him he needed to leave. The article quoted Governor Murphy and First Lady Tammy Murphy as saying that although they were “confident that this allegation was handled appropriately by the administration and that policies and procedures were properly and promptly followed, . . . the hire should not have happened.”

The administration’s response to the serious allegation and the subsequent hiring of Mr. Alvarez without a full investigation raises questions about the competence and culture of State government as a whole. For that reason, the Senate and General Assembly passed a concurrent resolution on October 29, 2018 establishing this special committee to review, among other things, the policies and procedures for dealing with an allegation of sexual assault in the context of public employment. (SCR148) It is not our mandate to make a factual determination about whether the alleged sexual assault occurred or whether the sexual contact was consensual. But we are mindful that a decision by a law enforcement agency that there is insufficient evidence to pursue a criminal case (where guilt must be proven beyond a reasonable doubt) is not the same as a finding that the alleged sexual assault did not occur.

Our committee sought to examine the Murphy administration's reasons for its failure to conduct an investigation, decision to hire, and then decision to direct Mr. Alvarez to leave the SDA. By conducting this careful review, we hope that this incident can be used to improve the State's practices and policies with regard to the hiring of a candidate for State employment who has been accused of sexual misconduct or other serious wrongdoing.

We received sworn testimony from fourteen fact witnesses and two experts over the course of nine days of public hearings, as well as a separate organizational hearing. The fact witnesses who testified before our committee are:

1. Katherine Brennan, Chief of Staff at the HMFA (Dec. 4, 2018);
2. Justin Braz, Deputy Chief of Staff for Legislative Affairs, Office of the Governor (Dec. 18, 2018);
3. Charles McKenna, Esq., Former CEO of the SDA (Dec. 18, 2018);
4. Peter Cammarano, Former Chief of Staff, Office of the Governor (Dec. 18, 2018; Jan. 10, 2019; and Feb. 5, 2019);
5. Parimal Garg, Esq., Deputy Chief Counsel, Office of the Governor (Jan. 8, 2019);
6. Jonathan S. Berkon, Esq., Partner, Perkins Coie LLP, Counsel for Murphy for Governor Campaign (Jan. 8, 2019);
7. Jose Lozano, Executive Director of Governor-elect Philip Murphy's Transition Team (Jan. 8, 2019);

8. Lizette Delgado Polanco, CEO of the SDA (Jan. 8, 2019);
9. Heather Taylor, Esq., Chief Ethics Officer, Office of the Governor (Jan. 10, 2019);
10. Matthew Platkin, Esq., Chief Counsel, Office of the Governor (Jan. 18, 2019);
11. Rajiv D. Parikh, Esq. Partner, Genova Burns LLC, Senior Counsel to Governor-elect Philip Murphy's Transition Team (Jan. 25, 2019);
12. Lynn Haynes, Esq., Former Deputy Chief of Staff for Cabinet Affairs and Operations, Office of the Governor (Feb. 5, 2019);
13. Melissa Lieberman, Esq., Chief of Staff, Department of Law and Public Safety, Office of the Attorney General (Feb. 5, 2019); and
14. Albert J. Alvarez, Former Chief of Staff at the SDA (March 12, 2019).

The committee received expert testimony from Charles Sullivan, Esq., Professor of Law and Senior Associate Dean at Seton Hall University School of Law, and Patricia Teffenhart, Executive Director of the New Jersey Coalition Against Sexual Assault. All sixteen witnesses appeared voluntarily, with the exception of Mr. Alvarez, who testified pursuant to a subpoena.

We also reviewed thousands of pages of documents, but, much to our surprise, we received little to no written documentation about a number of pivotal events. The absence of written records made the testimony of those who were involved all the more important, and we expected and hoped that all

witnesses would testify with candor and truthfulness. Regrettably, several witnesses were evasive and less than forthright about the hiring process, and gave contradictory, self-serving, or incredible testimony. Nevertheless, we believe that we have a sufficient understanding of all of the critical facts and decisions to make the recommendations contained herein.

After examination, it is our conclusion that the administration seriously mishandled the matter by failing to conduct an immediate investigation and by deciding to place Mr. Alvarez at the SDA without a full understanding of the facts. It is clear from the testimony of the committee's expert witness on employment law, Professor Charles Sullivan, that erroneous legal advice and a misunderstanding of applicable laws and policies contributed to the mistakes made. We hope that our report will help change how similar situations are handled in the future, consistent with due process, fundamental fairness for the accused, and sensitivity to the dignity of the accuser.

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The concurrent resolution establishing this special committee also directed the committee to review "the appropriateness of the Hudson County Prosecutor's actions to oversee the handling of the certain allegations of sexual

assault by” Ms. Brennan against Mr. Alvarez, upon completion of the Attorney General’s review of the matter.

In a letter dated November 27, 2018, Attorney General Gurbir S. Grewal advised the Legislature that, at his request, the Office of Public Integrity & Accountability (“OPIA”) conducted a review of the Hudson County Prosecutor’s conduct relating to Ms. Brennan’s allegation of sexual assault against Mr. Alvarez and “found no evidence that [the Hudson County Prosecutor] acted improperly in any respect regarding this investigation.” (Letter dated Nov. 27, 2018 from Hon. Gurbir S. Grewal to Hon. Stephen M. Sweeney and Hon. Craig J. Coughlin at 2) Attorney General Grewal further advised the Legislature that the OPIA’s investigation revealed that “the Prosecutor had no involvement in the manner in which the investigation was conducted, or in the decision about whether to bring charges.” (*Id.*)

Additionally, on October 15, 2018, Attorney General Grewal asked the Middlesex County Prosecutor’s Office (“MCPO”) to conduct an independent review of Ms. Brennan’s sexual assault allegation against Mr. Alvarez and to make a determination as to whether criminal charges should be brought. (Letter dated Jan. 30, 2019 from Matthew E. Beck, Esq. to Joseph A. Hayden, Jr., Michael Critchley, and Rosemary Alito at 4) On January 23, 2019, the MCPO

announced that it completed its investigation and had chosen not to pursue criminal charges against Mr. Alvarez. (*Id.*) The Attorney General’s Office also announced that it had reviewed the case files compiled by both prosecutors’ offices and “that it stands by the independent decisions of both offices” in choosing not to seek criminal charges against Mr. Alvarez. (*Id.*)

In light of the findings by the Attorney General’s Office, the OPIA, and the MCPO, as well as our committee’s decision not to make a factual determination as to whether the alleged sexual assault occurred, our committee did not conduct any further review of the Hudson County Prosecutor’s Office handling of this matter. However, it is worth noting that when the MCPO publicly announced that it had decided not to pursue criminal charges against Mr. Alvarez, the MCPO appears to have failed to follow the Attorney General’s new guidelines for providing services to victims of sexual assault issued in November 2018. Those new guidelines provide that, when a prosecutor’s office makes a decision not to prosecute an alleged sexual assault, “an assistant prosecutor shall provide the victim with the opportunity to meet with an AP in person to so inform the victim and explain the basis for that determination.” (Attorney General Standards for Providing Services to Victims of Sexual Assault at 26-27 (3d ed. Nov. 2018)) According to news accounts,

an attorney for Ms. Brennan stated that before issuing a public statement on its decision to not pursue charges against Mr. Alvarez, “the MCPO did not give Ms. Brennan the courtesy of a meeting to discuss the basis for their decision, a written explanation or even a telephone call.” (Dustin Racioppi, *Second NJ prosecutor’s office declines to bring charges in Katie Brennan sex assault case*, NorthJersey.com, Jan. 23, 2019) Instead, according to media reports, the MCPO faxed a letter to Ms. Brennan’s counsel that failed to explain the reasons for its decision not to pursue charges against Mr. Alvarez and then immediately issued a press release announcing its decision. (Insider NJ, *Brennan Legal Team On MCPO Conclusion: ‘Deeply Disturbed And Disappointed,’* InsiderNJ.com, Jan. 23, 2019) The apparent failure by the MCPO to follow the Attorney General’s new guidelines is disappointing and we hope that action is taken to ensure that the guidelines are followed in the future.

## **FACTUAL BACKGROUND**

### **1. Katherine Brennan**

Katherine (Katie) Brennan has spent her career working as an advocate for affordable housing. After graduate school, Ms. Brennan worked as a management associate at the HMFA and as a development consultant at a New Jersey non-profit that focuses on affordable housing. From May 2015 to February 2018, Ms. Brennan served as program director for Hudson County's affordable housing program. (Dec. 4, 2018 Tr. at 85)

In August 2017, Ms. Brennan began working as a volunteer policy advisor for the Murphy for Governor campaign. (Dec. 4, 2018 Tr. at 8) She held a similar role during the transition. (Dec. 4, 2018 Tr. at 9) Shortly after Governor Murphy's inauguration in January 2018, the executive director of the HMFA, Chuck Richman, hired Ms. Brennan to serve as chief of staff at the HMFA. (Dec. 4, 2018 Tr. at 11, 38, 71-72) She received the offer following a series of discussions and meetings throughout the campaign and transition "with various people, including most closely Matt Platkin, about the position." (Dec. 4, 2018 Tr. at 71-72) Ms. Brennan began working at the HMFA in late-February 2018. (Dec. 4, 2018 Tr. at 11)

## **2. Albert Alvarez**

Albert Alvarez is a lawyer and veteran Democrat political operative who worked as a deputy chief of staff in the Corzine administration from 2005 to 2010. (SDA0007) In October 2016, Mr. Alvarez left his position as an associate at a New Brunswick-based law firm to work for New Way for New Jersey, an issue advocacy group founded by then-Ambassador Murphy as he explored a gubernatorial run. (*Id.*; March 12, 2019 Tr. at 6) After Murphy announced his candidacy, Mr. Alvarez moved over to the campaign and served as its director of Latino and Muslim outreach, a role he held through election day in November 2017. (March 12, 2019 Tr. at 7)

After the election, the executive director of the Governor-elect's transition team, Jose Lozano, hired Mr. Alvarez to serve as deputy director of personnel for the transition. (March 12, 2019 Tr. at 8-9) Mr. Alvarez began working as chief of staff at the SDA under CEO Charles McKenna right after Governor Murphy's inauguration in January 2018. (March 12, 2019 Tr. at 39-41)

## **3. The Transition Period**

Upon winning the election in November 2017, Governor-elect Murphy and his staff had 69 days to form a new administration before inauguration day

in January 2018. The State allocated about \$250,000 to the gubernatorial transition. (Jan 8, 2019 Tr. at 191)

Broadly speaking, the transition consisted of two separate groups: the transition staff and the transition advisory committees. The transition staff worked full-time on transition matters and included a combination of paid transition employees, volunteers, and State employees who were temporarily transferred to the transition from their existing positions in State government. The transition advisory committees consisted of about 600 volunteers who worked part-time on reports with recommendations for the incoming Murphy administration. There were 14 separate transition advisory committees, each of which held two in-person meetings. (Jan. 25, 2019 Tr. at 6)

Mr. Alvarez officially began working for the transition staff on November 27, 2017 as the deputy director of personnel at an annual salary of \$100,000. (SDA0005) He shared an office with Lynn Haynes, the director of personnel. (Feb. 5, 2019 Tr. at 63) Ms. Brennan volunteered as the policy director for the transition's advisory committee on housing. (Dec. 4, 2018 Tr. at 9; Jan. 25, 2019 Tr. at 7)

On December 1, 2017, Ms. Brennan asked a friend on the transition team, Justin Braz, to advise senior transition staff that Mr. Alvarez might be arrested

for sexually assaulting her in April 2017. (Dec. 4, 2018 Tr. at 9-10; Dec. 18, 2018 Tr. at 6) However, she asked Mr. Braz not to disclose her name because she was hoping to get a job in the new administration and was concerned that she might not get the job if senior transition officials knew she was the accuser. (Dec. 4, 2018 Tr. at 42-43; Dec. 18, 2018 Tr. at 6-7) Ms. Brennan had told Mr. Braz about the alleged assault in April 2017 when Mr. Braz was working as chief of staff to a member of the General Assembly but asked him then not to share the information with anyone. (Dec. 4, 2018 Tr. at 7; Dec. 18, 2018 Tr. at 5-6) Mr. Braz testified that he believed Ms. Brennan's accusation against Mr. Alvarez. (Dec. 18, 2018 Tr. at 21, 26, 59, 77)

Consistent with Ms. Brennan's request, and believing her to be credible, Mr. Braz shared the information with the transition team's senior counsel, Rajiv Parikh, who suggested that they discuss the matter with the Governor-elect's chief of staff designee, Peter Cammarano. (Dec. 18, 2018 Tr. at 6; Jan. 25, 2019 Tr. at 9-11) Mr. Parikh and Mr. Cammarano testified that they asked Mr. Braz for the name of the accuser, but Mr. Braz told them he was not authorized to provide that information. (Jan. 25, 2019 Tr. at 9-10; Dec. 18, 2018 Tr. at 169) Mr. Cammarano and Mr. Parikh testified that they understood Mr. Braz's response to mean that he had broken the accuser's confidence by

coming to them with the information.<sup>2</sup> (Dec. 18, 2018 Tr. at 176, 211; Jan. 10, 2019 Tr. at 142; Jan. 25, 2019 Tr. at 14, 107, 115-16) They were mistaken, and follow-up questions to Mr. Braz could have resolved the misunderstanding and may have altered the chain of events that followed. (Dec. 18, 2018 Tr. at 81 (“I was authorized to tell somebody. She authorized me.”)) In any event, not wanting to interfere with a potential arrest or be accused of obstructing justice, and believing the accuser had not authorized Mr. Braz to share the information, Mr. Parikh told Mr. Braz and Mr. Cammarano to keep the information confidential and not to discuss it with anyone. (Jan. 25, 2019 Tr. at 11)

Notwithstanding that advice, Mr. Parikh and Mr. Cammarano immediately shared the information with Jose Lozano, the executive director of the transition. (Jan. 8, 2019 Tr. at 177-79; Jan. 25, 2019 Tr. at 66) They had a brief discussion about what to do next, after which Mr. Parikh said he would look into the issue and come back with further advice. (Jan. 8, 2019 Tr. at 179)

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<sup>2</sup> Their testimony is mistaken as to the intent of Ms. Brennan, but consistent with an internal memorandum prepared by Mr. Parikh two days later, on December 3, 2017, in which he explained that a member of the transition staff disclosed the matter to him “even though [the accuser] had requested that he not talk to anyone about it.” (G00000292) Their testimony is also consistent with the testimony of Jose Lozano, who said he was told by Mr. Parikh and Mr. Cammarano that the accuser “did not give permission to Mr. Braz to come forward.” (Jan. 8, 2019 Tr. at 226)

Mr. Braz called back Ms. Brennan right after he shared the information with the two senior transition officials and told her that transition counsel had not requested any more information. The response surprised Ms. Brennan, who testified that “if Transition Counsel had wanted to follow up, I think that they could have found me.” (Dec. 4, 2018 Tr. at 92) Other than conducting a public records search, neither Mr. Parikh nor Mr. Cammarano tried to get any more information about the accuser or the alleged sexual assault from Ms. Braz or any other source, including Mr. Alvarez. (Jan. 25, 2019 Tr. at 43-44)

Later in the day on December 1, 2018, the Hudson County Prosecutor’s Office advised Ms. Brennan that it would not be pursuing charges against Mr. Alvarez. (Dec. 4, 2018 Tr. at 10) Ms. Brennan alerted Mr. Braz, who reached out again to Mr. Parikh and Mr. Cammarano to provide them with the new information. (Dec. 4, 2018 Tr. at 10; Dec. 18, 2018 Tr. at 7) Mr. Parikh shared this development with Mr. Lozano. (Jan. 8, 2019 Tr. at 179; Jan. 25, 2019 Tr. at 14, 26) When interviewed by the law firm of Sills Cummis & Gross P.C. in connection with the Verniero Report,<sup>3</sup> Mr. Cammarano suggested that he

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<sup>3</sup> On October 15, 2018, Governor Murphy announced at a press conference that he had commissioned former New Jersey Attorney General and Supreme Court Justice Peter G. Verniero of the law firm of Sills Cummis & Gross P.C. to “conduct a real and exhaustive independent investigation into how this hire [of

believed the decision not to pursue criminal charges was very significant: “Once I heard there was nothing there, it was like ‘okay, fine, let’s keep going.’” (Sills Cummis & Gross P.C. Notes of Nov. 8, 2018 Interview of P. Cammarano at 3)

Curiously, when questioned by Senator Weinberg, Mr. Alvarez was hazy as to when the Hudson County Prosecutor’s Office informed him that it would not be pursuing criminal charges against him. He testified that although he could not recall the exact timing, he “believe[s] it was in the fall [of 2017] . . . somewhere close to October [2017].” (March 12, 2019 Tr. at 118-19) If this recollection is accurate, it would mean that the Hudson County Prosecutor’s Office advised Mr. Alvarez that he would not be criminally charged long before it advised Ms. Brennan on December 1, 2017 that he would not be charged.

After the hearing, counsel for the committee requested that Mr. Alvarez provide the committee with the specific date on which the Hudson County

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Mr. Alvarez] was allowed to go forward in transition.” On February 5, 2019, Sills Cummis submitted a report to the Office of the Governor (the “Verniero Report”) entitled “Report on the Vetting and Hiring Practices of the Governor-elect’s Transition Office and Related Issues.”

Prosecutor's Office advised him that he would not face criminal charges. His counsel responded:

In response to the Committee's inquiry, it is my understanding that the Hudson County Prosecutor's Office did not proactively inform Mr. Alvarez that there would not be any charges filed against him. Rather, in early 2018, Mr. Alvarez received a civil demand of \$1,500,000 from counsel for Ms. Brennan, which prompted his attorney to contact the prosecutor's office regarding the status of the investigation. Mr. Alvarez's attorney was then advised in early February 2018 that there would not be any charges filed, and he relayed that information back to Mr. Alvarez.

(March 29, 2019 email from Stacy Ann Biancamano, Esq. to Amy Luria, Esq.)

If this correction is accurate and the Hudson County Prosecutor's Office waited until February 2018 to advise Mr. Alvarez that he would not be criminally charged, it means that, up until the time he was hired, Mr. Alvarez was aware of an open criminal investigation against him and failed to raise it with anyone during the hiring process.

Mr. Parikh and Mr. Cammarano strongly disagree about what happened after Mr. Braz advised them in early December 2018 that Mr. Alvarez would not face criminal charges. Mr. Parikh testified that, with an imminent arrest off the table, he no longer felt that he or Mr. Cammarano needed to keep the

information confidential from anyone (except for Mr. Alvarez) and that he believes he told Mr. Cammarano that he could speak with the Governor-elect about it if he wanted to. (Jan. 25, 2019 Tr. at 26, 124) Mr. Parikh testified that he did not tell anyone to keep the allegation confidential from the Governor-elect. (Jan. 25, 2019 Tr. at 26-27, 85, 123-24) Mr. Cammarano, on the other hand, testified that Mr. Parikh told him that he could “not tell anyone [about the allegations], including the Governor.” (Dec. 18, 2018 Tr. at 194-95; Jan. 10, 2019 Tr. at 43; Feb. 5, 2019 Tr. at 14-16) Interestingly, Mr. Lozano was unable to shed any light on the disagreement because he testified that he never had any discussions with anyone about whether he could speak with the Governor-elect. He told us the issue “didn’t come up at all.” (Jan. 8, 2019 Tr. at 183)

Regardless of the legal advice given, Mr. Parikh and Mr. Cammarano are both in agreement that they did not share the information with anyone involved with the transition, other than Mr. Lozano. (Jan. 10, 2019 Tr. at 29; Jan. 25, 2019 Tr. at 88-89) And all three of those individuals—Mr. Lozano, Mr. Cammarano, and Mr. Parikh—deny having shared the sexual-assault allegation with either Governor-elect Murphy or the Governor-elect’s chief counsel designee, Matthew Platkin, during the transition period. (Dec. 18, 2018

Tr. at 171, 200; Jan. 10, 2019 Tr. at 28; Jan. 25, 2019 Tr. at 27, 38, 69, 88, 119) No witness testified during our hearings that either Governor Murphy or Matthew Platkin learned about the sexual-assault allegation during the transition period.

Mr. Parikh sought the counsel of several partners at his firm who specialize in employment law. In so doing, he sent them a detailed email memorandum framing all the relevant facts as he understood them. (G00000292-93) After consulting with his partners, Mr. Parikh finalized his legal advice to the transition team in mid-December 2017. (Jan. 25, 2019 Tr. at 88-89, 119) He testified that “to ensure that there was no retaliation to the unknown accuser,” the transition team decided to “limit Mr. Alvarez’s authority to make placement decisions” for individuals seeking positions within the administration. (Jan. 25, 2019 Tr. at 15-16) We find the advice curious given that it does not appear that Mr. Alvarez had any authority to make placement decisions in the first place. (March 12, 2019 Tr. at 10-11; Jan. 8, 2019 Tr. at 182) Mr. Parikh also recommended that senior members of the transition staff not inform Mr. Alvarez that they knew about the sexual-assault allegation or that they had limited his responsibilities. (Jan. 25, 2019 Tr. at 27, 40)

Mr. Parikh told us that, to implement his recommended course of action, he met with Mr. Alvarez's supervisor on the transition, Lynn Haynes, and told her that she should prohibit Mr. Alvarez from making any placement decisions. (Jan. 25, 2019 Tr. at 16) Mr. Parikh said that he did not share the allegations with Ms. Haynes and told her only that they put the restriction in place because of "an issue" with Mr. Alvarez. (Jan. 25, 2019 Tr. at 16) Mr. Parikh did not memorialize this advice in writing (Jan. 25, 2019 Tr. at 31, 120) and Ms. Haynes categorically denied that she had been instructed to restrict Mr. Alvarez's responsibilities (Feb. 5, 2019 Tr. at 79-80, 100-01).

Ms. Haynes does recall Mr. Parikh telling her that there was some type of a problem with Mr. Alvarez on the campaign, but she does not recall Mr. Parikh or anyone else telling her to change Mr. Alvarez's job duties or that he could not hire anyone. (Feb. 5, 2019 Tr. at 86, 100-01, 128) She said she would have remembered any such conversation because "it would have raised red flags." (Feb. 5, 2019 Tr. at 73) Even so, Ms. Haynes testified that the advice would have been unnecessary because Mr. Alvarez already lacked the authority to make placement decisions. (Feb. 5, 2019 Tr. at 93) Mr. Alvarez continued to attend meetings on personnel matters, be copied on and send emails on personnel matters, and prepare binders of potential candidates until

his work naturally shifted to the inauguration. (Feb. 5, 2019 Tr. at 79-81, 100-01, 108) For her part, Ms. Haynes testified that she would have liked someone to have told her that the man she shared an office with had been accused of sexual assault. (Feb. 5, 2019 Tr. at 132) She also told us that she would not have hired someone into the administration who had been accused of sexual assault without a full investigation as to what happened. (Feb. 5, 2019 Tr. at 132)

Mr. Parikh's personal, handwritten notes show that he and others considered performing an investigation into the sexual-assault allegations against Mr. Alvarez at a December 7, 2017 internal staff meeting. (G00001859) Mr. Parikh testified that they rejected the idea because "employers don't get bonus points for doing investigations." (Jan. 25, 2019 Tr. at 50) He explained "that doing an investigation would have consisted of going and talking to Mr. Alvarez, which would have then, essentially, outed Mr. Braz's friend against her wishes." (Jan. 25, 2019 Tr. at 50-51) But common sense dictates that Mr. Alvarez already knew at that time that Ms. Brennan had accused him of sexual assault since the matter had been investigated by law enforcement. Moreover, Ms. Brennan almost certainly would have cooperated in an investigation with the proper safeguards in place. The whole tenor of her

testimony was that she was trying to get someone in a leadership position to take action in response to her allegation.

It is surprising that, although counsel prepared a detailed memorandum framing the facts of the matter and the potential legal issues raised by those facts, there is no written record of the legal guidance provided, either to Messrs. Cammarano and Lozano about the confidentiality of the allegation or to Ms. Haynes about the limitations placed on Mr. Alvarez. Given the seriousness of the alleged conduct, we would have expected to see a written record of the legal advice provided as to how to handle a sexual assault allegation by a member of a transition advisory committee against an individual seeking a senior position in State government.

It is evident that the transition's response was woefully inadequate. It did not result in any concrete changes or restrictions on Mr. Alvarez's job responsibilities. And because none of the senior transition officials who were responsible for implementing the plan knew the identity of the accuser, it is unclear how the actions taken by the transition protected Ms. Brennan from potential retaliation. Common sense tells us that the serious nature of the conduct alleged by Ms. Brennan demanded a rigorous, but fundamentally fair, investigation of the facts before any hiring took place. Such an investigation

would have been best for all involved, including Mr. Alvarez, who testified that he would have welcomed the opportunity to present his side of the story. (March 12, 2019 Tr. at 51, 55, 57, 110, 122) If a full and rigorous investigation had cleared Mr. Alvarez, subsequent complaints by Ms. Brennan might not have resulted in a decision by some members of the administration to direct Mr. Alvarez to leave State employment because of the possibility of negative publicity.

Senior staff should have advised the Governor-elect of both the allegation against Mr. Alvarez and the need for an investigation because the hiring of Mr. Alvarez reflected on his administration. Instead of stopping the train and carefully looking into the allegation, the decision-makers on the transition staff continually rationalized why they should look away. This course of action did a disservice to all parties—Ms. Brennan, Mr. Alvarez, and Governor Murphy.

#### **4. Mr. Alvarez's Placement at the SDA**

Mr. Alvarez immediately began looking for a permanent position in the administration after he began working on the transition, submitting his resume to other transition team officials on December 1, 2017 and December 4, 2017. Around a month later, on January 2, 2018, Mr. Alvarez submitted a

“Transition2018 Employment Screening Questionnaire” formally applying for the position of CEO at the SDA. (G00000086-89) The day after, Stephanie Lezcano of the transition’s personnel office forwarded the application to transition counsel, Mr. Parikh, to facilitate an informal background and public records search on Mr. Alvarez. (G00000085; Jan. 25, 2019 Tr. at 8, 22)

As it turns out, the same day in January that Ms. Lezcano forwarded on Mr. Alvarez’s application, Ms. Brennan’s attorney sent a letter to Mr. Alvarez advising him that Ms. Brennan intended to pursue a civil action for the alleged sexual assault in April 2017. The attorney wrote that Ms. Brennan “may be open to negotiating a settlement” and also stated that she expected Mr. Alvarez would recuse himself from any involvement in decisions on Ms. Brennan’s potential employment in the Murphy administration. (BRENNAN0002) It does not appear that Mr. Alvarez shared the information about Ms. Brennan’s allegation and a possible civil action with anyone on the transition.

On the evening of January 8, 2018, Mr. Parikh included Mr. Alvarez’s name on an email to David Miller, the transition’s director of operations, with the subject “Vetting” and the text “Updated green lights,” conveying that Mr. Alvarez’s background and public records search came back clean. (G00000284-85) The notes from Mr. Parikh’s review state: “Braz discussion,

background check clean.” (G00001863) This is apparently a reference to the fact that although a perfunctory public records search came back clean, Mr. Braz reported to senior transition officials that a transition advisory committee member had accused Mr. Alvarez of sexually assaulting her.

About twenty-four hours later, on January 9, 2018, Mr. Lozano sent a text message to Charles McKenna, the CEO of the SDA, stating: “Can you meet w al Alvarez. Your new chief of Staff, ha :)[.]” (MCK007) Mr. McKenna met with Mr. Alvarez the next morning at a Starbucks in Trenton. It was not an interview. Mr. McKenna described the meeting as a courtesy by the transition; Mr. Alvarez was coming to work for him unless he told Mr. Lozano it was going to be impossible for the two of them to work together. (Dec. 18, 2018 Tr. at 143) Right after the meeting, Mr. McKenna texted Mr. Lozano: “Met with Al. Nice guy. We’ll work together well. You and I need to talk salary.” (MCK009)

On January 11, 2018—the day after the Starbucks meeting—Mr. Alvarez emailed David Miller with the subject “Updated Staff to Dept List” and an attached spreadsheet showing that Mr. Alvarez would be working at the SDA. (G00000281-82) The next day, Stephanie Lezcano of the transition personnel office emailed Ms. Haynes and Mr. Alvarez with the subject “Updated Staff to

Dept list with title and salary” and an attached spreadsheet indicating that Mr. Alvarez would be the Chief of Staff at the SDA with a salary of \$140,000. (G00000278-80) Also on January 12, 2018, Ms. Haynes prepared a letter on transition letterhead to Mr. Alvarez offering him the position of chief of staff at the SDA at an annual salary of \$140,000. (G00000068-69) Mr. Alvarez countersigned and returned the letter the same day. (G00000069)

Mr. McKenna confirmed that there was nothing ordinary about the manner in which Mr. Alvarez was hired as his chief of staff. He testified:

This was sort of a unique hiring for me. I mean, normally when we hire somebody at the SDA we have them come in, fill out a form, go through the process, get interviewed. And then we do a background check on the individual. I don't think that that was the process that we used here. I think he just landed on our door, and then he went to HR to fill out whatever records it was that HR filled out. But this was-- As I said, this was a unique hiring for us.

(Dec. 18, 2018 Tr. at 97)

## **5. Who Hired Mr. Alvarez?**

We are disappointed by the refusal of every member of the transition and administration who was involved in the hiring process to take responsibility as a decision-maker in the hiring of Mr. Alvarez, or to even admit that they knew who made the hiring decision. This is troubling and is likely because whoever

made the decision would need to explain why they hired Mr. Alvarez without investigating the allegation of sexual assault. Despite the lack of written records and definitive testimony from those involved, the evidence shows that Peter Cammarano and Jose Lozano made the decision to hire Mr. Alvarez.

Mr. Alvarez testified that he began having conversations with Mr. Cammarano and Mr. Lozano early in the transition about his interest in working for the Murphy administration. (March 12, 2019 Tr. at 24-29) Mr. Alvarez denied having any such conversations with Mr. Platkin (March 12, 2019 Tr. at 45) and Mr. Platkin denied any involvement in Mr. Alvarez's placement at the SDA (Jan. 18, 2019 Tr. at 12). Mr. Platkin flatly denied hiring Mr. Alvarez, as well as any knowledge whatsoever about who did, testifying that all he knows about the matter is what he has read in "press reports." (Jan. 18, 2019 Tr. at 12-13)

Mr. Alvarez recalled having several conversations with Mr. Lozano about where in the administration he might work after the transition. Mr. Alvarez said he believed it was important to speak with Mr. Lozano because he was "helping to get folks employed at the State level." (March 12, 2019 Tr. at 28) During their first conversation in November 2017, Mr. Alvarez recalls not being sure where he wanted to work. (March 12, 2019 Tr. at 28) But in

later conversations, Mr. Alvarez advised Mr. Lozano about his interest in working at the SDA, “and potentially being the CEO.” (March 12, 2019 Tr. at 28)

Mr. Alvarez testified that it was Mr. Lozano who advised him that the CEO position would not be available and who asked him if he would be interested in serving as chief of staff instead. (March 12, 2019 Tr. at 29)

According to Mr. Alvarez:

He [Mr. Lozano] advised me that the CEO of the SDA was going to continue in that role, and so that position was not available. However, the position of Chief of Staff, which was vacant at the time, was available; would I be interested? And if so, I should then contact Mr. McKenna directly.

(March 12, 2019 Tr. at 30)

Mr. Alvarez testified that, after his meeting with Mr. McKenna, he discussed salary with both Mr. McKenna and Mr. Lozano. (March 12, 2019 Tr. at 30-32) Mr. Alvarez told us that he believes he first spoke with Mr. McKenna, who told him that the salary range for a chief of staff is approximately \$140,000. Mr. Alvarez said that he then spoke with Mr. Lozano, who advised him that his salary could not exceed \$140,000 because that was the salary for the Governor’s chief of staff. (March 12, 2019 Tr. at 31-32)

MR. ALVAREZ: [Mr. Lozano] advised me that Chiefs of Staff should not go beyond \$140,000 because of the Governor's Chief of Staff having a salary set -- I imagine statutorily -- at \$140,000; he felt that the Chief of Staff at all agencies should, sort of, adhere to that similar standard.

[COUNSEL]: So he basically told you that your salary should be no higher than \$140,000 -- Mr. Lozano.

MR. ALVAREZ: That is correct.

[COUNSEL]: And when Mr. Lozano told you that the salary should be no higher than \$140,000, what did you say?

MR. ALVAREZ: I didn't say anything. It wasn't really a choice or a-- It was more of a statement.

(March 12, 2019 Tr. at 31-32)

Mr. Lozano provided completely contradictory testimony, telling us that he had no knowledge whatsoever about who set Mr. Alvarez's salary. He testified, in no uncertain terms, "I don't set salaries. In no moment at all during the Transition did I have a discussion about a Chief of Staff's salary." (Jan. 8, 2019 Tr. at 202)

Mr. McKenna also denied setting Mr. Alvarez's salary. When asked directly whether he made the decision as to Mr. Alvarez's salary, he responded: "I did not. In fact, there's some message between me and Mr. Lozano saying, 'We have to discuss what his salary will be.'" (Dec. 18, 2019 Tr. at 126-27)

The contradictions in the testimony concerning Mr. Alvarez's salary are stark and cannot be reconciled, but we are certain that Mr. Alvarez could not have set the \$140,000 salary himself.

Mr. Alvarez recalled having two conversations with Mr. Cammarano about the SDA, the first around late November 2017 when he expressed interest in being the CEO and the second in January 2018 after he learned from Mr. Lozano that Mr. McKenna would temporarily be staying on as CEO. (March 12, 2019 Tr. at 24-26) Mr. Alvarez said that Mr. Cammarano "seemed supportive" and did not discourage him from pursuing a job at the SDA. (*Id.*) Mr. Alvarez testified that he had these conversations with Mr. Cammarano because he would not be able to get the position if Mr. Cammarano had an objection, "meaning, essentially, [Mr. Cammarano and Mr. Lozano] needed to sign off and be okay with [him] going there." (March 12, 2019 Tr. at 44) Mr. Lozano testified that "[t]he majority of the final signoffs funneled either through Mr. Cammarano or Mr. Platkin." (Jan. 8, 2019 Tr. at 188, 234)

Mr. Cammarano, on the other hand, testified that he could not recall any specific involvement with Mr. Alvarez's placement at the SDA. (Dec. 18, 2018 Tr. at 175, 192) Mr. Cammarano also testified that he was not in any "way, shape, or form . . . the decision-maker as to the hiring of Mr. Alvarez" and has

no knowledge of who was. (Feb. 5, 2019 Tr. at 42) Mr. Lozano and Mr. Platkin took the same incredible position. (Jan. 8, 2019 Tr. at 173-75; Jan. 18, 2019 Tr. at 12)

Mr. Cammarano was more equivocal during his interview with the law firm of Sills Cummis & Gross P.C. on November 8, 2018. The firm's notes reflect that Mr. Cammarano told the firm that he did not "specifically recall hiring [Mr.] Alvarez." (Sills Cummis & Gross P.C. Notes of Nov. 8, 2018 Interview of P. Cammarano at 7) However, he further stated: "I may have ultimately verbally signed off. I can tell you I wasn't the one who told the SDA he was coming there." (*Id.*)

Lynn Haynes, the transition's director of personnel, testified that Mr. Lozano or Mr. Cammarano signed off on every hire and that if a staffer was interested in working at an authority she would direct them to speak with either "Mr. Cammarano or Mr. Platkin; and if they weren't available, Mr. Lozano." (Feb. 5, 2019 Tr. at 65-66) Ms. Haynes did not know who made the final call about Mr. Alvarez's placement at the SDA, but testified that one or more of those three individuals must have approved Mr. Alvarez's placement at the SDA on inauguration day. (Feb. 5, 2019 Tr. at 75) She subsequently clarified that Mr. Lozano and Mr. Cammarano were the only two individuals who could

make hiring offers. (Feb. 5, 2019 Tr. at 88) Significantly, she recalled Mr. Alvarez telling her on one of the last days of the transition:

*They're sending me over to SDA to be the Chief of Staff.*

(Feb. 5, 2019 Tr. at 66, 75 (emphasis added)) She also testified that Mr. Lozano confirmed the hire for her and provided Mr. Alvarez's salary information before she prepared the offer letter for Mr. Alvarez. (Feb. 5, 2019 Tr. at 66)

Mr. Alvarez testified that he knew who hired him to work for New Way for New Jersey and the campaign, and that he knew who hired him to work as a paid member of the transition staff. (March 12, 2019 Tr. at 6-8) However, Mr. Alvarez initially testified that he was not certain who made the decision to hire him as the chief of staff at the SDA. (March 12, 2019 Tr. at 37-38) But when pressed, Mr. Alvarez acknowledged that Mr. Cammarano must have been the ultimate decision-maker as to his hiring at the SDA. He stated:

[COUNSEL]: But you've just told us that it was Mr. Lozano who was involved with setting up the meeting; Mr. Lozano you reported back to; and Mr. Lozano who could have vetoed it if he didn't want to. So he, certainly, was a decision-maker.

MR. ALVAREZ: Generally, yes, I would agree with that characterization. However, I think that there is an important caveat. The ultimate decision-makers were Peter Cammarano and Matthew Platkin; ultimate decision-makers. And Jose Lozano's relationship with

both of them was extremely close; and it was very clear and evident that when you spoke to Jose, you could assume that when he spoke back to you it was because he had spoken to either Matthew or Peter. . . .

. . .

[COUNSEL]: . . . So Mr. Cammarano is telling us that he wasn't the decision-maker. He doesn't even know who the decision-maker is. But your understanding is, he was a decision-maker.

MR. ALVAREZ: Yes, that's my understanding. Yes, sir.

[COUNSEL]: And your understanding is he was a decision-maker in your hiring.

MR. ALVAREZ: My understanding is he was a decision-maker in pretty much everyone's hiring.

[COUNSEL]: Including your hiring.

MR. ALVAREZ: Including my hiring.

[COUNSEL]: So he was one of those who hired you.

MR. ALVAREZ: If that's-- I mean, yes.

[COUNSEL]: The answer is "yes."

MR. ALVAREZ: Yes.

(March 12, 2019 Tr. at 85-87)

Mr. Alvarez provided further clarity later in the hearing:

SENATOR CORRADO: This morning I thought your testimony was indicating that Mr. Lozano had hired you; this afternoon, I think it was leaning towards Mr. Cammarano had hired you.

MR. ALVAREZ: Yes.

SENATOR CORRADO: Who hired you?

MR. ALVAREZ: Again, I-- If the crux of the issue is who had the hiring authority, it would have been Mr. Cammarano.

(March 12, 2019 Tr. at 126 (emphasis added))

There has been some speculation that Mr. Alvarez may have “hired himself” to be the chief of staff at the SDA. We do not view this as a serious possibility for three reasons. First, it strikes us as implausible that Mr. Alvarez could have slotted himself into the role as chief of staff at the SDA without the approval of some combination of Mr. Lozano, Mr. Cammarano, and Mr. Platkin. Ms. Haynes agreed, testifying that she did not believe Mr. Alvarez could have hired himself because “there were people in positions of authority who were approving the hires.” (Feb. 5, 2019 Tr. at 84) Second, Ms. Haynes, not Mr. Alvarez, prepared his offer letter and confirmed the hire with Mr. Lozano, who also provided her with salary information. Finally, Mr. Alvarez applied to be the CEO of the SDA in early January 2018, but Mr. Lozano introduced him to Mr. McKenna as the “new chief of staff” at the SDA a week later. It seems to us that if Mr. Alvarez had hired himself, he would have hired himself as the CEO and not as the chief of staff.

Equally unpersuasive is the conclusion in the Verniero Report that “Mr. Alvarez’s placement at the SDA was a foregone conclusion based on his affiliation with the Murphy campaign and the transition office, and due to the fact that he was well known and presumably viewed positively within the Murphy hiring circle.” (Verniero Report at 20) It is inconceivable that any staffer could be viewed so positively and as so indispensable to the administration that he or she would be hired regardless of where they wanted to work, what job title they wanted, and what they wanted to be paid. And even if the Murphy administration wanted to reward Mr. Alvarez’s service on the campaign and transition with a job in the administration, it did not need to give him a senior-level position at the very top of the pay scale. It may have been a foregone conclusion that he would be hired in some capacity, but not as to when, where, and for what position. The hiring of Mr. Alvarez was approved by decision-makers, not by chance, the law of averages, default, or luck of the draw.

The evidence shows that, despite the incredible claims that nobody made the decision to hire Mr. Alvarez or that he hired himself or that his hiring was inevitable, the decision-makers hired him with full knowledge that a member of a transition advisory committee had accused Mr. Alvarez of raping her. And

they made that decision to give Mr. Alvarez a senior job at a salary of \$140,000 per year without investigating the truth or falsity of the claim. These actions are difficult to understand and the obfuscation as to who was responsible for Mr. Alvarez's hiring and who set his salary is insulting to the Legislature and its investigatory process.

#### **6. Ms. Brennan Speaks with Matthew Platkin and Parimal Garg**

Ms. Brennan became chief of staff at the HMFA on February 20, 2018, approximately four weeks after Mr. Alvarez became chief of staff at the SDA. (Dec. 4, 2018 Tr. at 11) It is our understanding that the HMFA's office is located about a mile away from the SDA's office. But Ms. Brennan testified—understandably in our view—that she feared seeing Mr. Alvarez around Trenton or at joint meetings of the administration's chiefs of staff. (Dec. 4, 2018 Tr. at 11) For that reason, and because she stated that she “wanted to stop Al Alvarez from ever attacking another woman again,” she decided to alert senior administration officials about the alleged sexual assault. (Dec. 4, 2018 Tr. at 11)

Ms. Brennan appears to have first considered speaking up in January 2018. Parimal Garg, a deputy chief counsel to the Governor and a personal friend of Ms. Brennan's who was at the party in question in April 2017,

testified that Ms. Brennan approached him at the Inaugural Ball on January 16, 2018 and said she wanted to speak with him in private “about a matter of serious wrongdoing by a senior Administration official.” (Jan. 8, 2019 Tr. at 5) Ms. Brennan did not share any details about the allegation with Mr. Garg at the time, but they agreed to speak later in the week. (*Id.*) The next day, Mr. Garg told his supervisor, Matthew Platkin—another personal friend of Ms. Brennan’s—about the conversation. (*Id.*) Mr. Platkin recalled having a conversation with Mr. Garg around this time about Ms. Brennan, but does not recall him saying that Ms. Brennan said she wanted to speak with him about serious wrongdoing by a senior administration official. (Jan. 18, 2019 Tr. at 101)

Ms. Brennan and Mr. Garg spoke by phone on January 19, 2018. Mr. Garg explained to her at the outset that although they were friends, he might have an obligation to share the information with others in the administration and thus could not guarantee her confidentiality. She told him that she had been thinking about it over the past few days and that she had decided she did not want to speak with him about the issue. Mr. Garg told us that he “respected her wishes,” reported back to Mr. Platkin, and that they jointly decided not to take any further action with Ms. Brennan. (Jan. 8, 2019 Tr. at 5-6, 16) These

conversations took place right around the time that Ms. Brennan learned she would be the chief of staff at the HMFA (Dec. 4, 2018 Tr. at 38) so perhaps she was not comfortable disclosing the allegation at that time. Regardless, it is concerning that Mr. Garg and Mr. Platkin did not press Ms. Brennan to disclose the “serious wrongdoing” at that time. At a bare minimum, inquiry should have been immediately made as to whether the alleged wrongdoing involved ongoing corruption.

About a month after Ms. Brennan began working at the HMFA, she reached out to both Mr. Platkin, the Governor’s chief counsel, and Mr. Garg, deputy chief counsel, to set up private meetings with them. (Dec. 4, 2018 Tr. at 11) Ms. Brennan and Mr. Platkin met for dinner at a restaurant in Jersey City on the evening of March 20, 2018. At the dinner, which lasted a few hours, Ms. Brennan disclosed to Mr. Platkin that Mr. Alvarez raped her almost a year earlier after a party with campaign staff that Mr. Platkin had, in fact, attended. (Dec. 4, 2018 Tr. at 95-97) She explained to him that the rape allegation was why she was so nervous during the hiring process. (Dec. 4, 2018 Tr. at 97) Mr. Platkin told Ms. Brennan that he was horrified and promised to report the accusation to see if anything could be done. (Dec. 4, 2018 Tr. at 97; Jan. 18, 2019 Tr. at 5, 103)

Mr. Platkin testified that his March 20, 2018 dinner with Ms. Brennan was the first time that he had learned about a rape allegation against Mr. Alvarez (Jan. 18, 2019 Tr. at 5) and we did not receive any testimony to the contrary. Ms. Brennan seemed to agree, telling us that Mr. Platkin seemed genuinely surprised by the rape allegation, “like [she] was the first one telling him.” (Dec. 4, 2018 Tr. at 75) Mr. Platkin testified that he believed Ms. Brennan’s accusation against Mr. Alvarez. (Jan. 18, 2019 Tr. at 82)

On the morning of March 22, 2018, Mr. Platkin reported Ms. Brennan’s allegation to Heather Taylor, who is the chief ethics officer for the Office of the Governor and is also the designated contact in the office for complaints under the State’s Equal Employment Opportunity (“EEO”) policy. (Jan. 18, 2019 Tr. at 6) Unlike Mr. Platkin, who knew both Ms. Brennan and Mr. Alvarez, Ms. Taylor did not know either Ms. Brennan or Mr. Alvarez. (Jan. 10, 2019 Tr. at 161) Mr. Platkin advised Ms. Taylor that Ms. Brennan was the chief of staff at the HMFA and that Mr. Alvarez was the chief of staff at the SDA. (Jan. 10, 2019 Tr. at 161) They decided that Ms. Taylor would contact the Attorney General’s office to seek guidance about what could be done. (Jan. 10, 2019 Tr. at 161) Mr. Platkin testified that he advised Ms. Taylor that he should not participate in any investigation into the matter because he knew

both individuals, but that he did not formally recuse himself from the matter. (Jan. 18, 2019 Tr. at 6, 22, 69) Ms. Taylor does not recall Mr. Platkin recusing himself (Jan. 10, 2019 Tr. at 184), but her handwritten notes from their meeting reveal that Mr. Platkin was “conflicted” because he had a personal relationship with both Ms. Brennan and Mr. Alvarez (G00000287). It does not appear that Mr. Platkin disclosed to Ms. Taylor that he was at the April 2017 going away party with Ms. Brennan and Mr. Alvarez on the night of the alleged rape, perhaps making him a fact witness.

Mr. Platkin separately reported Ms. Brennan’s allegation to Mr. Cammarano that same day. Mr. Platkin explained to us that, as chief of staff, “Mr. Cammarano was in charge of personnel matters within the Administration, and [Mr. Platkin] deemed it appropriate, under the EEO policy, for Mr. Cammarano to be made aware of the allegation.” (Jan. 18, 2019 Tr. at 6) After discussing the matter, they decided that Mr. Alvarez should be told to leave his position at the SDA and that Mr. Cammarano would relay the message because Mr. Platkin had recused himself from the matter because of his personal relationships with both Ms. Brennan and Mr. Alvarez. (Jan. 10, 2019 Tr. at 53) According to both witnesses, the decision for Mr. Alvarez to

leave was a direction, not a suggestion. (Dec. 18, 2018 Tr. at 215-17; Feb. 5, 2019 Tr. at 25-26; Jan. 18, 2019 Tr. at 7, 106, 139)

Mr. Platkin testified that, based on his understanding of the confidentiality requirements in the State's EEO policy, he made a judgment call at that time not to share the allegations with the Governor. (Jan. 18, 2019 Tr. at 22) However, he acknowledged that "it is certainly a fair conclusion to think a different decision should have been made." (Jan. 18, 2019 Tr. at 23) Mr. Platkin's clearly erroneous legal determination appears to have been based on one-hour of EEO training and his reading of applicable policy, but without consulting an employment lawyer for a decision with such weighty consequences. (Jan. 18, 2019 Tr. at 41, 72, 92) Mr. Platkin should have consulted attorneys with more knowledge about and experience with the State's Policy Prohibiting Discrimination in the Workplace. He certainly could have discussed the matter with Rajiv Parikh, counsel for the transition, or Jonathan Berkon, counsel for the campaign, whom he ultimately called in June 2018, or any experienced employment lawyer in State government. The legal decision was far too important to have been made in this sloppy manner.

There is no question that Mr. Cammarano learned in December 2017 that a member of a transition advisory committee had accused Mr. Alvarez of

sexually assaulting her during the campaign. So a pivotal question is what additional information Mr. Cammarano learned between December 2017 and March 2018 that caused him to quickly and readily agree with Mr. Platkin that Mr. Alvarez needed to leave his job at the SDA. He explained that learning the identity of the accuser and more details about the allegation against Mr. Alvarez caused him to change his mind about having Mr. Alvarez working in the administration. (Feb. 5, 2019 Tr. at 44) He told us: “When Mr. Platkin shared with me Ms. Brennan’s accusations, I thought that was significant enough that we did not want him to be part of the Administration.” (Jan. 10, 2019 Tr. at 52) He also said that the fact that both Mr. Alvarez and Ms. Brennan were State employees in March 2018 factored into the decision to tell Mr. Alvarez he needed to leave the SDA. (Jan. 10, 2019 Tr. at 150) But as explained below, Mr. Cammarano appears to have been the only person in the administration who identified the potential problem of Ms. Brennan working in the administration with her alleged rapist and he did not share this concern with anyone.

Mr. Cammarano and Mr. Platkin both testified that Mr. Platkin reminded Mr. Cammarano at the end of their meeting about the strict confidentiality provisions in the State’s EEO policy (Dec. 18, 2018 Tr. at 171; Jan. 18, 2019

Tr. at 6-7), but, once again, we received conflicting testimony about the specific advice given. Mr. Cammarano testified that he specifically asked Mr. Platkin whether the confidentiality provision in the State's EEO policy precluded him from speaking with the Governor about Ms. Brennan's allegation against Mr. Alvarez and that Mr. Platkin told him it did. (Feb. 5, 2019 Tr. at 35 ("[T]he conversation was about confidentiality, and expressly about not telling the Governor included in that confidentiality.") Mr. Platkin testified that he did not recall specifically telling Mr. Cammarano that he could not share the information with the Governor, but said that he could understand why Mr. Cammarano may have interpreted their conversation that way. (Jan. 18, 2019 Tr. at 105)

These conflicting recollections also appear in the notes of the law firm of Sills Cummis & Gross P.C. from its interviews of Mr. Cammarano and Mr. Platkin. The firm's notes reflect that Mr. Cammarano said during his interview on November 8, 2018 that he suggested multiple times to Mr. Platkin that the Governor should be told about Ms. Brennan's accusation against Mr. Alvarez, but Mr. Platkin advised him not to. (Sills Cummis & Gross P.C. Notes of Nov. 8, 2018 Interview of P. Cammarano at 6) On the other hand, Mr. Platkin told the firm during his interview on November 9, 2018 that nobody ever suggested

speaking with the Governor about Ms. Brennan's accusation against Alvarez. (Sills Cummis & Gross P.C. Notes of Nov. 9, 2018 Interview of M. Platkin at 6) Once again, it is troubling that there is no written record memorializing the critical legal advice rendered by Mr. Platkin or the legal basis for the advice he provided.

On the evening of March 22, 2018, Ms. Brennan told her friend Mr. Garg about the alleged sexual assault in April 2017. (Dec. 4, 2018 Tr. at 11) He told Ms. Brennan that he was "heartbroken" for her and promised her his support. (Jan. 8, 2019 Tr. at 6) Mr. Garg testified that he believed Ms. Brennan's accusation against Mr. Alvarez. (Jan. 8, 2019 Tr. at 32) He reported the information to Mr. Platkin, his direct supervisor, the next day, but by that time Mr. Platkin had already spoken with both Ms. Taylor and Mr. Cammarano. (Jan. 8, 2019 Tr. at 6-7)

## **7. March 26, 2018 Meeting**

On Friday, March 23, 2018, Mr. Cammarano set up a meeting with Mr. Alvarez for Monday, March 26, 2018. (G00000294) Unfortunately, the only two people at that meeting—Mr. Cammarano and Mr. Alvarez (Dec. 18, 2018 Tr. at 220)—do not agree on what happened as to a critical fact. And once

again, there is no contemporaneous written record as to what Mr. Cammarano said to Mr. Alvarez.

Mr. Cammarano testified that he told Mr. Alvarez that “he had been accused of sexual assault, and that he should make arrangements to leave his State employment” at the SDA. (Dec. 18, 2018 Tr. at 171) He said that Mr. Alvarez strongly denied the allegations and “became teary eyed and emotional.” (Dec. 18, 2018 Tr. at 171) Although Mr. Cammarano did not fire Mr. Alvarez, he said his instructions to Mr. Alvarez were “very clear” and that he believed Mr. Alvarez understood that he needed to leave his job at the SDA. (Dec. 18, 2018 Tr. at 171, 216-217) Surprisingly, Mr. Cammarano never followed up and never spoke with Mr. Alvarez again (Jan. 10, 2019 Tr. at 20), which undercuts his testimony that he ordered Mr. Alvarez to leave State government.

Mr. Alvarez recalled the portions of the discussion about his employment differently. He testified that Mr. Cammarano told him that he was aware of the allegation made by Ms. Brennan and that “the allegation would make [his] continued tenure in State government untenable.” (March 12, 2019 Tr. at 49) However, Mr. Alvarez told us that Mr. Cammarano stopped short of telling him that he needed to leave his job at the SDA, just that “he would prefer that

[Mr. Alvarez] leave State government.” (March 12, 2019 Tr. at 49 (emphasis added)) Mr. Alvarez made no efforts to leave State government between that meeting and his discussions with Mr. McKenna and Mr. Platkin on June 7, 2018, discussed in greater detail below. (March 12, 2019 Tr. at 52) If there had been a writing memorializing the decision made about Mr. Alvarez or the directions that Mr. Cammarano asserts he gave to Mr. Alvarez, there would be a record of what actually occurred in March 2018.

#### **8. The Administration’s Civil Review of Ms. Brennan’s Sexual Assault Allegation**

As previously noted, Mr. Platkin spoke with Heather Taylor, the chief ethics officer in the Governor’s Office, on March 22, 2018. Shortly after that meeting, Ms. Taylor emailed Jodi Stipick, Director of the New Jersey Attorney General’s Office of Equal Employment Opportunity, to request time to speak about what Mr. Platkin shared with her. (G00000260) Ms. Taylor explained that this matched how she handled all previous EEO complaints she had received from inside the Office of the Governor; she referred the matter to Ms. Stipick and Ms. Stipick handled the intake of the formal complaint and conducted an investigation. (Jan. 10, 2019 Tr. at 168-69)

Ms. Taylor's handwritten notes from that day reveal that Ms. Stipick said she would call Ms. Brennan and listen to her story, and would discuss the matter with Melissa Lieberman, the chief of staff for the Department of Law and Public Safety. (G00000287; Jan. 10, 2019 Tr. at 168; Feb. 5, 2019 Tr. at 163) Ms. Taylor did not call Ms. Brennan herself. (Jan. 10, 2019 Tr. at 167)

Ms. Brennan testified that she received a "confirmation call" around this time from someone at the Attorney General's Office to "confirm[] what Al Alvarez had done to [her]." (Dec. 4, 2018 Tr. at 127) She could not recall who she spoke with, but it appears that Ms. Stipick called her. Ms. Brennan could not recall being asked any questions about her current work situation and whether she came into contact with Mr. Alvarez or feared coming into contact with him. (Dec. 4, 2018 Tr. at 128) But Ms. Brennan told us that if someone had asked her how she felt about potentially coming into contact with Mr. Alvarez at work, she "would have said it's nerve-wracking." (Dec. 4, 2018 Tr. at 129)

Ms. Lieberman, not Ms. Stipick, called back Heather Taylor on March 27, 2018 to advise her that the Attorney General's Office had concluded that it lacked jurisdiction to investigate Ms. Brennan's allegation against Mr. Alvarez. Ms. Taylor said that Ms. Lieberman's call came "out of the blue" and

that she did not understand Ms. Lieberman's role. (Jan. 10, 2019 Tr. at 186)

For reasons that are not entirely clear to us, no one shared the conclusion reached by the Attorney General's Office with Ms. Brennan for nearly a month.

Ms. Lieberman gave Ms. Taylor two reasons for the conclusion reached by the Attorney General's Office that the State lacked jurisdiction over Ms. Brennan's complaint. First, neither Ms. Brennan nor Mr. Alvarez were State employees when the alleged incident occurred in April 2017. Second, the incident did not occur on State property. (Jan. 10, 2019 Tr. at 171; G00000288)

Ms. Taylor asked Ms. Lieberman if the Attorney General's Office could hire outside counsel to conduct an investigation, but Ms. Lieberman told her that it could not because it lacked jurisdiction over Ms. Brennan's complaint. (Jan. 10, 2019 Tr. at 172) Instead, Ms. Lieberman recommended that the campaign investigate the matter. (Jan. 10, 2019 Tr. at 170; G00000288)

Ms. Lieberman had a different recollection of events. Ms. Lieberman testified that Ms. Taylor called her in the first instance on March 22, 2017 "at the request of Matt Platkin regarding an allegation of impropriety made by Katie Brennan against Al Alvarez." (Feb. 5, 2019 Tr. at 163) Ms. Lieberman could not recall the exact description of the alleged conduct provided by Ms. Taylor, but understood it to be some type of sexual harassment; she wrongly

believed Ms. Brennan was upset about how Mr. Alvarez treated her on the campaign. (Feb. 5, 2019 Tr. at 163) She was adamant that nobody told her that Ms. Brennan had accused Mr. Alvarez of rape, and that, if someone had, she “would have had a conversation about whether there had been a criminal investigation into the matter.” (Feb. 5, 2019 Tr. at 167, 191, 199) This miscommunication about the gravity of the complaint is emblematic of the sloppy manner in which the administration handled Ms. Brennan’s allegation.

Ms. Lieberman told us that she specifically asked Ms. Taylor whether the alleged misconduct during the campaign period had continued into either the transition or the employment of Ms. Brennan and Mr. Alvarez as State employees, and Ms. Taylor told her it did not. (Feb. 5, 2019 Tr. at 164) Ms. Lieberman never spoke directly with Ms. Brennan and is unaware of anyone in her office having reached out to speak with Ms. Brennan. (Feb. 5, 2019 Tr. at 167, 192) Ms. Lieberman said that she encouraged Ms. Taylor to call Jodi Stipick and that she would also speak with Ms. Stipick herself. (Feb. 5, 2019 Tr. at 171)

Ms. Lieberman said that she knew that both Ms. Brennan and Mr. Alvarez were working as chiefs of staff, but did not discuss the possibility of a hostile work environment because of the responses to her questions. (Feb. 5,

2019 Tr. at 171) Ms. Lieberman candidly acknowledged that, in hindsight, she probably should have made that specific inquiry. (Feb. 5, 2019 Tr. at 171) Ms. Taylor also told us that she had not considered whether the presence of Ms. Brennan's alleged rapist in the workplace implicated the State's policy against a hostile work environment. She said that she left it to the Attorney General's Office to make the correct determination. (Jan. 10, 2019 Tr. at 172-73)

Before responding to the Governor's Office, Ms. Lieberman discussed the matter and her recommended course of action with the most senior staff in the Attorney General's Office, including Attorney General Gurbir Grewal. (Feb. 5, 2019 Tr. at 179) She explained:

This was early in the new Governor's Administration; and we were fielding a lot of phone calls from the Governor's Office, in this time period, as the new Administration was being formed.

And so it was just one of a lot of different matters that were being -- I was being contacted about, in those early couple of months. Similarly, in this time period, I was reporting most of what I was being called about by the Governor's Office to the Attorney General, and the First Assistant, and the Executive Assistant, because it was a new Administration. And out of an abundance of caution, until we sort of got our bearings about how the office was going to be run, it felt like the appropriate thing to let them know we were getting those kinds of calls from the Governor's Office.

(Feb. 5, 2019 Tr. at 182) Apparently nobody disagreed with Ms. Lieberman's determination that the State lacked jurisdiction over Ms. Brennan's complaint.

The absence of any written record about Ms. Brennan's complaint to Mr. Platkin, and how the Attorney General's Office handled it, borders on the shocking. With the exception of Ms. Taylor's personal, handwritten notes, there is no record of a complaint having been made, how it was resolved, or the legal and factual justification for the resolution. In this digital age, the public should not have to rely on the vagaries of oral testimony and human recollection for such a serious matter.

When asked why there is no written record of Ms. Brennan's complaint, Ms. Lieberman testified that the Attorney General's office viewed Ms. Taylor's call as an inquiry for advice and not the transmission of an EEO complaint. (Feb. 5, 2019 Tr. at 172-73) She also told us that it "was a quite unusual situation" since the report involved an employee of an independent authority about historic conduct that occurred during the campaign. (Feb. 5, 2019 Tr. at 175)

Unusual as it may have been, Ms. Taylor testified that she shared Ms. Brennan's complaint with the Attorney General's Office in the same manner that she had handled all previous EEO complaints she had received in the past

(three or four total). (Jan. 10, 2019 Tr. at 163-64) Ms. Taylor told us that, in her experience, once she shared the information with Ms. Stipick, the Attorney General's office would process the complaint and conduct an investigation. (Jan. 10, 2019 Tr. at 169) Ms. Taylor testified that it was her understanding that in the past the Attorney General's Office had always made a written record of the complaint upon receipt. (Jan. 10, 2019 Tr. at 179)

#### **9. Heather Taylor Shares the State's Jurisdictional Determination with Matthew Platkin and Katherine Brennan**

Ms. Taylor met with Mr. Platkin on March 28, 2018 to discuss the conclusion reached by the Attorney General's Office. She said that Mr. Platkin was disappointed to learn that the State lacked jurisdiction. Ms. Taylor also shared Ms. Lieberman's recommendation that the campaign should investigate Ms. Brennan's allegations, but she never followed up with Mr. Platkin about that recommendation. (Jan. 10, 2019 Tr. at 174-75)

Mr. Platkin disagreed with the notion that the Attorney General's Office had recommended that the campaign conduct an investigation; he testified that Ms. Taylor presented it to him as more of "an off-handed suggestion." (Jan. 18, 2019 Tr. at 112) However, the testimony revealed that Ms. Lieberman's recommendation for an investigation by the campaign was a product of

discussions among the upper echelon of the Attorney General's Office, including the Attorney General himself, and that the Attorney General's Office expected that the recommendation would be taken seriously. (Feb. 5, 2019 Tr. at 193) Regardless, Mr. Platkin considered and rejected the idea for two reasons. First, he believed the campaign entity was defunct by that point. Second, Mr. Cammarano had already told Mr. Alvarez that he needed to leave State employment "so the State EEO matter was closed at that point." (Jan. 18, 2019 Tr. at 112) Interestingly, we learned from the testimony of Jonathan Berkon that the campaign entity was not defunct, and that Mr. Platkin had access to an experienced campaign lawyer who could have conducted an investigation on behalf of the campaign. (Jan. 8, 2019 Tr. at 81)

Curiously, the State waited almost a month to advise Ms. Brennan of the determination by the Attorney General's Office that the State lacked jurisdiction over the complaint and only relayed the decision to her orally after she reached out to Mr. Platkin. On the morning of April 24, 2018, Ms. Brennan sent a text message to Mr. Platkin stating "FYI, in regard to our previous conversation in JC no one has reached out to me as of yet." (BRENNAN0004) This appears to have prompted Mr. Platkin to reach out to Ms. Taylor, who had not taken any action with the advice she received from the Attorney General's

Office beyond speaking with Mr. Platkin. At Mr. Platkin's request, Ms. Taylor called Ms. Brennan that day and advised her that the Attorney General's Office had concluded that it lacked jurisdiction. (Jan. 10, 2019 Tr. at 176) After speaking with Ms. Brennan, Ms. Taylor sent a text message update to Mr. Platkin. She wrote:

I spoke to Katy. She was disappointed that the AG's Office did not have jurisdiction, but she understood the reasoning. She thought it was too bad that women do not have a recourse unless the event occurs at work. She did not indicate that she was going to the press. Instead, she just seemed sad about the issue and I tried to be very sympathetic. I told her that you take these issues very seriously and she appreciated your interest.

(G00000290 (emphasis added)) Ms. Taylor testified that she included the information about the press because Mr. Platkin specifically asked her whether she believed that Ms. Brennan would share the allegation with the press.<sup>4</sup> (Jan. 10, 2019 Tr. at 200) Ms. Taylor also testified that when she spoke with Mr. Platkin on April 24, 2018, he had not shared with her that Mr. Cammarano had told Mr. Alvarez that he needed to leave his employment at the SDA. Ms.

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<sup>4</sup> Mr. Platkin explained that there is a potential for press coverage with almost every conversation he has so it is always something he thinks about, but that it "was not [his] foremost concern with Ms. Brennan." (Jan. 18, 2019 Tr. at 49) He said that his primary concerns were "for the confidentiality of [Ms. Brennan] and following the policy, as [he] felt [he] was obligated to do." (Jan. 18, 2019 Tr. at 71)

Taylor said that if she had been aware of that, she likely would have shared the information with Ms. Brennan. (Jan. 10, 2019 Tr. at 199)

Ms. Brennan was never told that she had any means of appealing the State's determination about its lack of jurisdiction or that she could file a formal complaint, either internally or with the Division of Civil Rights. (Dec. 4, 2018 Tr. at 127-31) Nor was she told that the Attorney General's Office had suggested that the better course was for the campaign to conduct an investigation into her allegation of sexual assault. (Dec. 4, 2018 Tr. at 91) Nor did the administration consult with Jonathan Berkon, Esq., counsel for the campaign, about the feasibility of conducting an investigation of Ms. Brennan's allegation that Mr. Alvarez sexually assaulted her during the campaign. (Jan. 8, 2019 Tr. at 100)

#### **10. Ms. Brennan Reaches Out Directly to Governor Murphy in June 2018**

Dissatisfied with the administration's apparent failure to take any action in response to her sexual assault allegation against Mr. Alvarez, Ms. Brennan sent an email directly to Governor Murphy and First Lady Tammy Murphy on June 1, 2018 with the subject "Sensitive Matter – Meeting Request." She wrote: "Reluctantly, I am coming to you today to discuss something that

happened during the campaign. If possible, I would like to meet with either of you one on one for this sensitive matter.” Within the hour, the Governor responded: “We know you well. Adding our respective teams to get on with scheduling something. Hang in. We are on it. If we prove not to be fast enough don’t hesitate to come back to Tammy or me directly.” (BRENNAN0008)

Governor Murphy immediately forwarded Ms. Brennan’s email and his response to both his chief counsel, Matthew Platkin, and campaign counsel, Jonathan Berkon of the Washington, DC office of the Perkins Coie law firm with a short message: “M/J Fyi. P.” (BERKON003) Mr. Berkon told us that he did not find the Governor’s email at all unusual because the style matched how the Governor typically emails. (Jan. 8, 2019 Tr. at 51-52) Surprisingly, both Mr. Berkon and Mr. Platkin testified that they never had any further communications with the Governor about the substance of Ms. Brennan’s email or the actions they took in response. (Jan. 8, 2019 Tr. at 47; Jan. 18, 2019 Tr. at 47, 77 (Mr. Platkin testifying “I did not speak to [the Governor] directly about the substance of the matter”)) Nor was there any testimony that the Governor ever followed up with his staff to understand what Ms. Brennan’s specific concern was and how it was being handled.

Despite Ms. Brennan’s email and his response, Governor Murphy has consistently denied having any knowledge of Ms. Brennan’s sexual assault allegation against Mr. Alvarez until after Mr. Alvarez left the SDA on October 2, 2018. Responding to questions from the press on December 5, 2018, Governor Murphy stated that he had no knowledge of “the specifics of what had happened to [Ms. Brennan] until . . . October 2nd [2018].” Michael Aron, *Murphy maintains timeline, pledges cooperation in Brennan rape case*, NJTV News, Dec. 5, 2018.<sup>5</sup> He explained that when Ms. Brennan “reached out and mentioned that there was a matter that related to the campaign, it was a natural act” for him to forward the message to both Mr. Platkin and Mr. Berkon. (*Id.*) Continuing, he said it “was a fairly natural, easy, logical step for [him] to take.” (*Id.*)

There was no testimony presented during our hearings indicating that the Governor knew about Ms. Brennan’s sexual assault allegation against Mr. Alvarez before October 2, 2018. However, it is highly unusual that several of the Governor’s top aides were aware of the sexual assault allegation, which

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<sup>5</sup> <https://www.njtvonline.org/news/video/murphy-maintains-timeline-pledges-cooperation-in-brennan-rape-case/>

they believed to be true, but failed to mention it to him during the ten-month period between December 1, 2017 and October 2, 2018.

On Saturday, June 2, 2018—one day after Ms. Brennan sent her email to the Governor—Mr. Berkon reached out to Ms. Brennan by email:

I was/am the counsel to the campaign (and before that, counsel to several of the Governor/First Lady's other initiatives). They wanted me to get back to you ASAP on your email from Friday. Per campaign policy,<sup>6</sup> I am tasked with hearing from anyone who has a campaign-related concern so that we can properly address. I'm based in Washington D.C. but am happy to travel to NJ or we can connect by phone - whichever you prefer. Just let me know.

(BRENNAN0045-57) Ms. Brennan responded two days later, advising Mr. Berkon that she was waiting for a response from her attorney and would be in touch soon. (BRENNAN0037-45)

Late in the evening on June 7, 2018, Mr. Berkon wrote to Ms. Brennan to tell her that he had “an update” for her if she and her attorney wanted to schedule a call. (BRENNAN0023-27) After some back and forth on scheduling, they connected on the phone for the first time on Sunday, June 10, 2018. (BRENNAN0018-21) Ms. Brennan testified that before she had a chance

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<sup>6</sup> The committee made multiple requests to Mr. Berkon's counsel for a copy of the “campaign policy” referenced in Mr. Berkon's June 2, 2018 email to Ms. Brennan, but Mr. Berkon never produced any such policy.

to tell Mr. Berkon what the “sensitive matter” related to, Mr. Berkon told her that Mr. Alvarez would be leaving the administration and State employment. (Dec. 4, 2018 Tr. at 13, 33) On a follow-up call later in the month, Mr. Berkon told Ms. Brennan that he could not reveal the reason for Mr. Alvarez’s departure because “it’s an HR matter” (Dec. 4, 2018 Tr. at 13, 59-60, 123; BRENNAN0017), but the statement implied that Mr. Alvarez was leaving as a result of her allegation. It is not clear to us why counsel for the campaign communicated a Murphy administration HR matter to Ms. Brennan.

Despite Mr. Berkon’s assurance on June 10, 2018 that Mr. Alvarez would be leaving State employment, Mr. Alvarez remained at the SDA until the Wall Street Journal contacted him on October 2, 2018 requesting to speak with him about Ms. Brennan’s allegations. It was ill advised for Mr. Platkin to instruct campaign counsel to tell Ms. Brennan that Mr. Alvarez would be leaving State employment and then not follow up to ensure that the promise was kept.

#### **11. Further Discussions with Mr. Alvarez in Response to the June 1, 2018 Email to Governor Murphy**

Mr. Platkin testified that when he received the email from Governor Murphy on June 1, 2018 forwarding Ms. Brennan’s email, he was “concerned”

that Mr. Alvarez was still at the SDA. (Jan. 18, 2019 Tr. at 16) He told us that it was his understanding that Mr. Cammarano directed Mr. Alvarez in March 2018 to leave State employment and that Mr. Alvarez was complying with that instruction. (Jan. 18, 2019 Tr. at 16) Mr. Platkin and Mr. Berkon spoke on the phone about an hour after the Governor forwarded Ms. Brennan's email to them. (Jan. 8, 2019 Tr. at 79) Mr. Platkin explained to Mr. Berkon that Ms. Brennan had accused Mr. Alvarez of sexually assaulting her during the campaign. (Jan. 8, 2019 Tr. at 52; Jan. 18, 2019 Tr. at 8) Mr. Berkon knew Mr. Alvarez from the campaign and New Way for New Jersey, but did not know Ms. Brennan. (Jan. 8, 2019 Tr. at 52-53)

Mr. Berkon shared Mr. Platkin's view that it was "untenable" for Mr. Alvarez to remain in State government given the severity of the allegation made against him.<sup>7</sup> (Jan. 8, 2019 Tr. at 53-54) Mr. Platkin agreed that Mr. Alvarez should not remain in State government. (Jan. 18, 2019 Tr. at 116) Mr. Platkin and Mr. Berkon also agreed that it made sense for Mr. Berkon to handle the matter because he represented the campaign and Ms. Brennan's email to

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<sup>7</sup> Mr. Berkon testified that he believes he would have given the same advice in December 2017 if had been consulted by the transition team about potentially hiring Mr. Alvarez as chief of staff at the SDA. (Jan. 8, 2019 Tr. at 140)

the Governor referenced a campaign issue. They said they would stay “in close touch” on the issue. (Jan. 8, 2019 Tr. at 47)

According to Mr. McKenna, on June 6, 2018, Mr. Platkin asked Mr. McKenna to come to his office for a meeting. (Dec. 18, 2018 Tr. at 92, 110) Mr. Platkin explained to Mr. McKenna that something had happened with Mr. Alvarez on the campaign that required Mr. Alvarez to “step back from government.” (Dec. 18, 2019 Tr. at 92) Mr. Platkin told Mr. McKenna that if Mr. Alvarez did not leave his job at the SDA, the issue might hit the press and it could become “ugly” or embarrassing to both Mr. Alvarez and the Governor. (Dec. 18, 2018 Tr. at 100; MCK003) Mr. McKenna testified that he asked Mr. Platkin whether he was being asked to fire Mr. Alvarez and Mr. Platkin said that he was not; Mr. Alvarez just needed to “start the process of looking for a job.” (Dec. 18, 2018 Tr. at 95)

Mr. McKenna testified that he was curious what the issue was, but did not press Mr. Platkin to tell him because he felt that the administration would have told him if they thought he needed to know. (Dec. 18, 2018 Tr. at 104) Mr. McKenna told us that Mr. Alvarez was a “fine employee” who “came to work every day and did his job” and that he had never heard any complaints about him. (Dec. 18, 2018 Tr. at 115-16, 144-45)

After learning from the Wall Street Journal that Mr. Alvarez had been accused of sexual assault and that senior transition officials, including Mr. Lozano, were aware of the allegation when they placed Mr. Alvarez at the SDA, Mr. McKenna said that he certainly would have liked to have known in January 2018 about the allegation and would have pushed back about whether Mr. Alvarez should be hired. (Dec. 18, 2018 Tr. at 155-56) Mr. McKenna explained that the SDA employs more than 225 people and that the administration's decision potentially put some of his employees at risk. (Dec. 18, 2018 Tr. at 154-55) If it had been up to him, Mr. McKenna said he would have investigated Ms. Brennan's allegations because he thinks "you owe both parties to find out what the situation was." (Dec. 18, 2018 Tr. at 157)

Mr. Alvarez was not in the office when Mr. McKenna returned so he spoke with him the next day. (Dec. 18, 2018 Tr. at 92-93) He sat Mr. Alvarez down and explained the situation to him. Mr. McKenna testified that Mr. Alvarez denied that he had done anything wrong, but seemed to understand and said he would begin to look for a job. (Dec. 18, 2018 Tr. at 93-94) Mr. McKenna did not discuss a timeline with Mr. Alvarez, but assumed that it would be "a multi-week or multi-month process." (Dec. 18, 2018 Tr. at 96) At the end of the meeting, Mr. Alvarez asked if there was anyone in the

administration he could speak with and Mr. McKenna told him to call Mr. Platkin. (Dec. 18, 2018 Tr. at 94-95)

After the meeting, Mr. McKenna exchanged text messages with Mr. Platkin. Mr. McKenna wrote:

He was calm. He seemed to understand the situation and I think will begin to look. I told him that I was told that if it became public it could get ugly and my hand would be forced and it would not be a good situation which could affect [h]is ability to move forward. I suspect he gets it.

...

I'm sure he will [call you] because he knows my situation and that I don't really speak for the Administration. [I] think he would want some affirmation of what I said. It's what I would want before I took on life altering change. I expect this was not what he was thinking about when he came to work this morning.

(MCK003-5) A short time later, Mr. Platkin texted Mr. McKenna to let him know that he had spoken with Mr. Alvarez. Mr. Platkin responded that Mr. Alvarez "was professional and will look for other employment." (MCK006)

Mr. McKenna left the SDA on August 10, 2018—nine weeks after he had instructed Mr. Alvarez that he needed to separate himself from State employment. (Dec. 18, 2018 Tr. at 96) Mr. McKenna never followed up with Mr. Alvarez to see when he was planning on leaving or if he had taken any

steps to find new employment and told us that “10 weeks to find another job and move out does not seem . . . unreasonable.” (Dec. 18, 2018 Tr. at 96)

Lizette Delgado Polanco replaced Mr. McKenna as the CEO of the SDA. She testified that Peter Cammarano reached out to her in July 2018 to gauge her interest in the job and that Mr. Cammarano offered her the job in mid-July about a week after she interviewed with him. She did not interview with anyone else. (Jan. 8, 2019 Tr. at 275)

Nobody informed her that Mr. Alvarez had been instructed to separate himself from State employment. Ms. Delgado Polanco informed us that she did not learn that Mr. Alvarez had been accused of sexual assault until October 2, 2018, when Mr. Alvarez told her about the inquiry from the Wall Street Journal reporter. (Jan. 8, 2019 Tr. at 252) Mr. Cammarano could have and should have shared the details of the allegation and the administration’s response with Ms. Delgado Polanco, but chose not to.

Hoping to avoid a conflict with Mr. Alvarez, Ms. Delgado Polanco had actually asked Mr. Cammarano during her interview if Mr. Alvarez would be okay with her coming in as CEO. Mr. Cammarano told her, “Yes, it doesn’t matter; he’s leaving,” but failed to share any additional information with her. (Jan. 8, 2019 Tr. at 253) Mr. Cammarano testified that he decided not to inform

Ms. Delgado Polanco because “Mr. Alvarez would not be there much longer” and he was “not sure of the legalities of sharing that information” with Mr. Alvarez’s new boss. (Feb. 5, 2019 Tr. at 53-54) Ms. Delgado Polanco testified that, if she had been made aware of the allegation, Mr. Alvarez “would have been one of the first people who would have to leave” and that she would not have authorized the \$30,000 raise he received later in August 2018. (Jan. 8, 2019 Tr. at 283-85)

Unsurprisingly, Mr. Alvarez also did not give her any of the details behind his anticipated departure, telling her only that he could not handle the commute to Trenton and planned to work closer to his Bergen County home. (Jan. 8, 2019 Tr. at 255) Mr. Alvarez told Ms. Delgado Polanco that he would be leaving the SDA no later than the end of October 2018. (Jan. 8, 2019 Tr. at 255) Mr. Alvarez told us that it was his “goal” to leave by the end of October, but that was not a hard date and that he would have stayed beyond October if he had not found another job by that time. (March 12, 2019 Tr. at 95)

## **12. Assistance with Mr. Alvarez’s Job Search**

We also received contradictory evidence about whether anyone in the administration agreed to help Mr. Alvarez find a new job. Mr. Alvarez submitted a sworn statement to the Department of Labor in connection with

his appeal from the denial of unemployment benefits, stating: “[I]n June [2018], I requested additional time and assistance in finding a new job before resigning. Both the Governor’s Office and the NJ Schools Development Authority agreed with that request.” (SDA0038 (emphasis added)) Mr. Alvarez testified that his request for time and assistance was a “counteroffer” to the administration’s demand that he leave his job at the SDA. (March 12, 2019 Tr. at 93) However, both Mr. Platkin and Mr. Cammarano denied promising or providing Mr. Alvarez any assistance in finding a new job. (Jan. 18, 2019 Tr. at 27; Feb. 5, 2019 Tr. at 25-26)

When we asked Mr. Alvarez to explain his statement to the Department of Labor, he told us that Mr. Platkin gave him a commitment to help him find a new job when they spoke on June 7, 2018 and that Mr. McKenna agreed to go along with whatever the administration decided.

[COUNSEL]: And you said, in this statement, that they offered to find you a position, correct?

MR. ALVAREZ: They offered to assist me, yes.

[COUNSEL]: Who offered you a position -- who offered you assistance in finding a position?

MR. ALVAREZ: Matthew Platkin.

[COUNSEL]: Anyone else?

MR. ALVAREZ: No.

[COUNSEL]: When did he offer -- Mr. Platkin -- when did he offer you assistance in finding a position?

MR. ALVAREZ: It was the date of that conversation; so June of 2018.

...

[COUNSEL]: So you were advised that the nature of the allegation was such there wasn't going to be any fact-finding, and you had to leave. And was it at that point in time you came back with, kind of, a counteroffer?

MR. ALVAREZ: Yes; in that same conversation, when he made it clear to me that there was no alternative, there would be no investigation, then I said, "Well, can I at least have some time to find a new job, and can you guys help me, or assist me with that?"

(March 12, 2019 Tr. at 14, 92-95)

Mr. Platkin provided contradictory testimony, telling us that he "[doesn't] recall anything that would lead [Mr. Alvarez] to believe that" he would offer Mr. Alvarez any assistance with finding a new job. (Jan. 18, 2019 Tr. at 27) It is impossible to accept the testimony of both Mr. Alvarez and Mr. Platkin on this point as true.

Although we have seen no evidence definitively showing that anyone in the administration affirmatively assisted Mr. Alvarez in his search for new employment, there is evidence that Mr. Platkin or Mr. Cammarano may have been attempting to help Mr. Alvarez. Mr. Platkin testified that he had at least

two conversations with Mr. Alvarez after their June 7, 2018 discussion and that they spoke about potential jobs at Rutgers. (Jan. 18, 2019 Tr. at 145, 148) Not only did Mr. Platkin not try to talk Mr. Alvarez out of applying for a job at the State institution, Mr. Platkin passed along specific information about the jobs to Mr. Cammarano (Jan. 18, 2019 Tr. at 148-49), who apparently passed that information on to a high-level contact at Rutgers.

Emails and text messages reveal that Mr. Cammarano contacted Peter McDonough at Rutgers University in mid-August 2018 to ask about jobs that he believed Mr. Alvarez had applied for. (RUTGERS001-003) Mr. Cammarano sent a text message to Mr. McDonough on August 14, 2018, stating:

The first position was for Chief of Staff for strategic communications. He isn't sure if [sic] the number. He also applied for the 18ST2548. Assoc VP for Advancement Services. His name is Al Alvarez.

(RUTGERS003) Two days later, Mr. McDonough responded:

I can't find the first job you referenced (a search for that title yielded nothing for me – any other info would help). I put a word in with the president of the foundation for that second job.

(RUTGERS003)

Internal Rutgers emails suggest that Rutgers employees felt that the Governor's Office was looking for a courtesy. On August 16, 2018, Mr. McDonough emailed Nevin Kessler, President of the Rutgers University Foundation:

I got a call from the Gov's chief of staff about an applicant for the opening as Associate Vice President for Advancement Services (posting number 18ST2548). The applicant is Al Alvarez, the chief of staff at the State Schools Construction Authority. I don't know him and am not sure if he's got the qualifications, but could we have someone reach out to him to do some sort of phone interview just to be responsive? There is not an expectation on their part that he gets hired, just that we give the guy a shot.

(RUTGERS001) This email implies that, no matter what Messrs. Platkin and Cammarano intended, Mr. McDonough certainly believed that the Governor's Office was asking for Mr. Alvarez to be given an interview and "a shot" at the job.

Mr. Cammarano testified that he was "relieved" to learn that Mr. Alvarez had not applied for either job at Rutgers because he would have felt compelled to disclose the sexual assault allegation to Rutgers' officials even if it meant violating "confidentiality laws." (Feb. 5, 2019 Tr. at 52) But if he felt so strongly, why did he pass along this information in the first place? It strains

credulity to imagine that he would be willing to commit what he believed were violations of confidentiality laws by disclosing the alleged sexual assault to Rutgers if he was unwilling to share that same information with Governor Murphy, Charles McKenna, and Lizette Delgado Polanco.

### **13. Mr. Alvarez Gets a \$30,000 Raise in August 2018 from the SDA**

Although senior administration officials told Mr. Alvarez to leave State employment on March 26, 2018 and then again on June 7, 2018, Mr. Alvarez was still working at the SDA in late August 2018. And although Ms. Delgado Polanco knew that Mr. Alvarez intended to leave the SDA in the coming months, she nevertheless approved a \$30,000 raise for Mr. Alvarez effective August 20, 2018, from \$140,000 annually to \$170,000 annually. (Jan. 8, 2019 Tr. at 256; SDA0018) The raise represented a 21.43% increase in his annual salary. (SDA0018) Other executives at the SDA also received raises around the same time, but none was as large as the raise given to Mr. Alvarez. (March 12, 2019 Tr. at 97-98)

We did not receive any testimony indicating that the Governor's Office had advance knowledge of or approved the raise given to Mr. Alvarez in August 2018. Ms. Delgado Polanco testified that she implemented significant changes to the management structure at the SDA shortly after she arrived,

placing more responsibility with the chief of staff. (Jan. 8, 2019 Tr. at 256-57) She told us that she gave Mr. Alvarez the raise knowing that he was leaving and hoping that the higher salary would help her hire a highly qualified candidate to replace Mr. Alvarez. (Jan. 8, 2019 Tr. at 257) She testified that gave other senior employees at the SDA raises at the same time and that although she did discuss raises generally with the Governor's Office, she did not have any discussions with the Governor's Office about a proposed raise for Mr. Alvarez specifically. (Jan. 8, 2019 Tr. at 289-90)

Heather Taylor, the chief ethics officer in the Governor's Office, testified that, after Mr. Alvarez resigned, she conducted an investigation into the \$30,000 raise given to him in August 2018. She concluded that the raise had not been discussed with anyone in the Governor's Office and that it had been approved by Ms. Delgado Polanco alone.<sup>8</sup> (Jan. 10, 2019 Tr. at 215)

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<sup>8</sup> During the course of our work, serious allegations surfaced as to wrongful firings, nepotism, and abuses of power at the SDA by CEO, Lizette Delgado Polanco. On April 23, 2019, Ms. Delgado Polanco tendered her resignation as CEO of the SDA amidst mounting criticism of alleged hiring abuses. It appears as though one or more other legislative committees will conduct an inquiry into the alleged hiring abuses during budget hearings, and that the Office of the Attorney General or the State Commission of Investigation may also look into the matter. Given these other inquiries, our committee has decided not to investigate all alleged hiring abuses at the SDA at this time. If, after the conclusion of the other inquiries, we believe there is a need for this committee

#### **14. Mr. Alvarez Submits His Letter of Resignation on October 2, 2018**

On October 2, 2018, Kate King of the Wall Street Journal separately emailed Albert Alvarez, Justin Braz, and Matthew Platkin to advise them that she was working on a story about Katherine Brennan's rape allegation and to give them an opportunity to comment. (G00000093; G00000259; March 12, 2019 Tr. at 17) We once again have contradictory testimony about what happened next. Mr. Alvarez testified that he immediately tried to contact both Mr. Cammarano and Mr. Platkin, but did not receive any response. (March 12, 2019 Tr. at 17) He then went to speak with Ms. Delgado Polanco and explained everything to her. (March 12, 2019 Tr. at 17-18) Mr. Alvarez told us that Ms. Delgado Polanco called Mr. Cammarano right in front of him and they had a brief conversation while he listened in. (March 12, 2019 Tr. at 18) He claims that Ms. Delgado Polanco informed him after the call that he had to resign immediately and fax his letter of resignation to the Governor's Office. (March 12, 2019 Tr. at 18)

Ms. Delgado Polanco testified that Mr. Alvarez came to her office, explained the situation, denied the allegation, and then, unprompted, handed

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to inquire further, then our committee can reconvene to look into these issues at a later date.

her a letter of resignation. (Jan. 8, 2019 Tr. at 262-63) According to Ms. Delgado Polanco, Mr. Alvarez said: “I’m not going to embarrass you or the Authority, here’s my letter of resignation. I am resigning as of today.” (Jan. 8, 2019 Tr. at 263) She told us that she then called Peter Cammarano to tell him that Mr. Alvarez resigned and he asked her to fax it over to him immediately. (Jan. 8, 2019 Tr. at 264) Ms. Delgado Polanco testified that she never told Mr. Alvarez to resign and that he was the one who told her he was resigning. (Jan. 8, 2019 Tr. at 264) And Mr. Cammarano and Mr. Platkin testified that they are not aware of anyone from the Governor’s Office demanding that Mr. Alvarez submit a letter of resignation. (Feb. 5, 2019 Tr. at 54-55; Jan. 18, 2019 Tr. at 123-24) Notwithstanding this testimony, it seems unlikely that this man who held out from resigning for more than six months would have spontaneously decided to do so without a direct order from someone. It is ironic that the potential of a newspaper story was able to accomplish what directions from Mr. Cammarano, Mr. Platkin, and Mr. McKenna were not able to—the immediate resignation of Mr. Alvarez.

Later in the day on October 2, 2018, Messrs. Cammarano and Platkin (and potentially others) informed Governor Murphy about the rape allegation against Mr. Alvarez. Mr. Platkin testified that “the Governor was visibly

shocked and upset, and did not appear to have any prior knowledge of the accusation.” (Jan. 18, 2019 Tr. at 9) His testimony tracked the testimony of Mr. Cammarano, who testified that the Governor and First Lady appeared “blindsided and completely shocked” by the allegation against Mr. Alvarez. (Dec. 18, 2018 Tr. at 171)

The Wall Street Journal article published on October 14, 2018 raised provocative questions. Significantly, the article quoted Governor Murphy and First Lady Tammy Murphy as saying that although they were “confident that this allegation was handled appropriately by the administration and that policies and procedures were properly and promptly followed[,] . . . the process during the transition was inconsistent with our values, and the hire should not have happened.” Kate King, *A Sexual-Assault Accusation in New Jersey Spotlights a National Dilemma*, Wall Street Journal, Oct. 14, 2018. The Legislature formed this joint committee in the wake of the Wall Street Journal article for the purposes referred to above.

### **TESTIMONY THAT RAISES TROUBLING ISSUES**

From the beginning, the committee’s mandate has been to gather facts relating to the administration’s hiring, retention, and termination of Mr.

Alvarez after Ms. Brennan accused Mr. Alvarez of sexually assaulting her and to attempt to make recommendations to ensure that complaints of alleged sexual assault are heard and handled in a competent manner.

At no time has politics played any role in the committee's work. Instead, as Governor Murphy has repeatedly implored, we have put politics aside and have attempted to just "call balls and strikes." Michael Aron, *Murphy maintains timeline, pledges cooperation in Brennan rape case*, NJTV News, Dec. 5, 2018. Unfortunately, the apparent lack of candor by many key witnesses has impeded our ability to do just that.

The committee's ability to get to the truth of the matter is only as good as the facts presented to it. A consistent source of frustration for the committee in attempting to fulfill its mandate, and call balls and strikes, was the numerous contradictions, large and small, presented in the testimony of several material witnesses who testified before us. Although some discrepancies in testimony could be chalked up to misremembering small facts, many of the differences in testimony between witnesses were dramatic with regard to significant facts. This can only lead the committee to conclude that some witnesses provided evasive or misleading testimony.

As has been stated throughout this report, the preparation of contemporaneous notes or memoranda memorializing the events as they occurred would have mitigated at least some of the troubling inconsistencies in the testimony of significant witnesses. While the lack of contemporaneous notes is itself an issue that needs to be addressed, perhaps of greater concern is that this lack of documentation seems to be the result of either a shocking lack of recognition of the seriousness of the allegation or a desire not to have a factual record of the precise details of what transpired.

The accusation made by Ms. Brennan was not a complaint of an off-color joke, but of sexual assault. Whether true or not, all agreed that the accusation is a very serious crime. Nevertheless, while every witness testified under oath that they agreed that the accusation was very serious, and to the extent they knew Ms. Brennan, believed she was telling the truth, the actions or inactions of several members of the transition and the administration at key points reflect a more disturbing and dismissive response to Ms. Brennan's allegation.

The perception of a disinterested response is reflected, for example, in the lack of follow-up with regard to Mr. Alvarez allegedly being instructed multiple times to depart from State government. It leaves the committee with the impression that the administration only viewed Ms. Brennan's allegation

as serious after learning in October 2018 that the Wall Street Journal was working on a story concerning her claim.

Below is a summary of some of the more troubling testimony the committee has identified, and key questions left unanswered as a result.

**1. Did Transition Counsel Raj Parikh Advise Transition Leadership that They Could Not Disclose the Sexual Assault Allegation Against Mr. Alvarez to the Governor-elect?**

One of the key issues before the committee was whether transition leadership advised Governor-elect Murphy of Ms. Brennan's allegation during the transition, and if not, why not? It seems a matter of common sense that an allegation of sexual assault against a high-ranking member of the transition team and a close associate of the Governor-elect would be reported to the Governor-elect.

The incoming chief of staff, Peter Cammarano, claimed that he never discussed the sexual assault allegation against Mr. Alvarez with the Governor-elect because Mr. Parikh had told him that he could "not tell anyone [about the allegation], including the Governor." (Dec. 18, 2018 Tr. at 194-95; Jan. 10, 2019 Tr. at 43; Feb. 5, 2019 Tr. at 14-16) Mr. Parikh, on the other hand, testified that he did not tell anyone to keep the allegation confidential from the Governor-elect. (Jan. 25, 2019 Tr. at 26-27, 85, 123-24) In fact, Mr. Parikh

testified that he believes he told Mr. Cammarano that he could speak with the Governor-elect about it if he wanted to. (Jan. 25, 2019 Tr. at 26, 124)

Unfortunately, there is no writing memorializing Mr. Parikh's conversations with Mr. Cammarano or Mr. Lozano on the critical issue of confidentiality and whether the Governor-elect could be told about the allegation against Mr. Alvarez. It is surprising that there is a writing framing the legal issues to be researched, but not one memorializing the results of the research, the legal advice given, or to whom the advice was shared with.

**2. Why Did the Campaign Not Follow the Recommendation from the Attorney General's Office to Investigate Ms. Brennan's Allegation?**

The committee is also left to attempt to unravel the conflicting testimony over the campaign's failure to follow the strong recommendation from the Attorney General's Office to conduct an investigation into Ms. Brennan's accusation. Melissa Lieberman, Chief of Staff to the Attorney General, testified that, after consulting with the Attorney General and two other high-ranking members of the Attorney General's Office, she recommended to Heather Taylor, Chief Ethics Officer for the Office of the Governor, that the campaign should conduct an investigation into Ms. Brennan's allegation. (Feb. 5, 2019 Tr. at 165) Ms. Lieberman testified that she considered the

recommendation that the campaign conduct an investigation a “very serious recommendation,” and that she was “concerned” that her recommendation was not taken seriously, and, thus, that no investigation was conducted. (Feb. 5, 2019 Tr. at 193)

Mr. Platkin testified, however, that he viewed the Attorney General’s Office’s recommendation that the campaign conduct an investigation as more of “an off-handed suggestion.” (Jan. 18, 2019 Tr. at 112) Regardless, Mr. Platkin testified that he considered and rejected the recommendation, without any further discussion with the Attorney General’s Office, based on his personal conclusion that an investigation was unnecessary. (Jan. 18, 2019 Tr. at 112) Mr. Platkin never discussed this recommendation that the campaign conduct an investigation with counsel for the campaign, Jonathan Berkon, who he subsequently reached out to several months later in June after Ms. Brennan emailed the Governor about a “sensitive” campaign matter. (Jan. 18, 2019 Tr. at 112)

Once again, because there are no detailed contemporaneous notes or documentation as to Mr. Platkin’s decision-making about Ms. Lieberman’s recommendation, the committee is unable to understand Mr. Platkin’s

motivation for not following the express recommendation given by the Attorney General's Office.

**3. Did the Governor's Office Advise the Attorney General's Office that Ms. Brennan's Accusation Involved an Alleged Sexual Assault?**

Another conflict exists concerning whether Ms. Taylor told Ms. Lieberman that Ms. Brennan's allegation concerned a sexual assault. Ms. Lieberman categorically and unequivocally testified that nobody told her the allegation involved a sexual assault; she testified that she understood it to be some type of sexual harassment. (Feb. 5, 2019 Tr. at 163, 167, 191) Moreover, Ms. Lieberman further testified that had she been aware of an allegation of sexual assault, she "would have had a conversation about whether there had been a criminal investigation into the matter." (Feb. 5, 2019 Tr. at 167) However, Ms. Taylor testified that she understood from her discussion with Mr. Platkin that Ms. Brennan claimed that "she had been sexually assaulted by Mr. Alvarez during the Campaign" and that she informed Jodi Stipick in the Attorney General's Office "about the discussion [she] had with Mr. Platkin." (Jan. 10, 2019 Tr. at 161) Ms. Taylor further testified that she believed that the Attorney General's Office "would reach out to Ms. Brennan and listen to the facts of the case or the matter." (Jan. 10, 2019 Tr. at 205)

It is difficult to understand how there is any uncertainty over whether the Governor's Office advised the Attorney General's Office that Ms. Brennan's accusation involved a sexual assault, or if anyone from the Attorney General's Office spoke with Ms. Brennan. Obviously, if Ms. Taylor,<sup>9</sup> Ms. Lieberman, or Ms. Stipick memorialized their conversations concerning Ms. Brennan's complaint, there would be no confusion. Nor would there be any confusion if the Attorney General's Office had formally documented Ms. Brennan's complaint and issued a written determination for its conclusion that the State lacked jurisdiction over the matter, because the nature of the complaint would have been set forth.

#### **4. Did Mr. Lozano Discuss Mr. Alvarez's Salary as Chief of Staff at the SDA?**

In addition to questions raised about who hired Mr. Alvarez, and whether Mr. Alvarez should have been hired as chief of staff at the SDA after an accusation of sexual assault had been leveled against him, the issue of who set Mr. Alvarez's salary was similarly a matter of testimonial dispute.

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<sup>9</sup> Ms. Taylor did create handwritten notes of her involvement in reporting Ms. Brennan's complaint, but the notes make no mention of the specific information she shared with either Ms. Lieberman or Ms. Stipick. (G00000287-88)

On the one hand, Mr. Lozano testified that at no time did he ever have any discussion with Mr. Alvarez concerning his salary as Chief of Staff at the SDA. His testimony was clear and unambiguous: “I don’t set salaries. In no moment at all during the Transition did I have a discussion about a Chief of Staff’s salary.” (Jan. 8, 2019 Tr. at 202)

Mr. McKenna and Mr. Alvarez provided completely contradictory testimony. Mr. McKenna testified that he referred the decision on Mr. Alvarez’s salary to Mr. Lozano. (Dec. 18, 2019 Tr. at 126-27) Text messages between Mr. McKenna and Mr. Lozano support this testimony. (MCK009) And Mr. Alvarez testified that he not only had a specific conversation with Mr. Lozano about how his salary could not exceed \$140,000, but also that Mr. Lozano explained that the reason was because no chief of staff could have a higher salary than the \$140,000 salary given to the Governor’s chief of staff. (March 12, 2019 Tr. at 31-32)

The issue of who approved Mr. Alvarez’s salary is of minimal significance to the committee’s ultimate inquiry, but our inability to get a straight answer on who set Mr. Alvarez’s salary—one of the highest in the administration—further highlights the lack of processes and controls in place during the transition. It is also consistent with the refusal of anyone in the

administration to take any responsibility for any part of Mr. Alvarez's hiring. As executive director of the transition, it would seem logical that Mr. Lozano would be responsible for overseeing and participating in the approval of personnel decisions for the transition. It would make sense that Mr. Lozano would have (or should have) had some knowledge concerning the placement of Mr. Alvarez into one of the highest paying positions in the administration. Nevertheless, like others, Mr. Lozano testified he was not involved in any aspect of Mr. Alvarez's hiring or salary.

Both Mr. Lozano and Mr. Alvarez were adamant in their respective contradictory testimony and it is impossible to reconcile their diametrically opposed versions of what was, or was not, discussed. It raises the inevitable question of whether Mr. Lozano or Mr. Alvarez provided evasive or misleading testimony to the committee.

#### **5. Did Mr. Cammarano Direct Mr. Alvarez to Leave the Administration in March 2018?**

Yet another inconsistency relates to Mr. Cammarano's March 26, 2018 meeting with Mr. Alvarez in which Mr. Cammarano testified he advised Mr. Alvarez that he had to leave the administration and that Mr. Alvarez clearly understood Mr. Cammarano's instruction. (Dec. 18, 2018 Tr. at 171, 216-217)

Mr. Alvarez, however, testified that Mr. Cammarano never specifically instructed him that he had to leave his position with the SDA during the meeting and that Mr. Alvarez made no effort to find another job after the March 28, 2018 meeting. (March 12, 2019 Tr. at 49, 52) Despite Mr. Cammarano’s categorical testimony to our committee that he directed Mr. Alvarez to separate himself from government employment, he told the law firm of Sills Cummis & Gross, P.C. on November 8, 2018 that he only “suggested” to Mr. Alvarez that he leave his job at the SDA: “I informed him of what I had heard and I suggested to [Mr. Alvarez] that he may want to reconsider his career in state government because an incident like that could be problematic.” (Sills Cummis & Gross P.C. Notes of Nov. 8, 2018 Interview of P. Cammarano at 4 (emphasis added))

Common sense would again seem to dictate that Mr. Cammarano would memorialize, in some form, his instructions to Mr. Alvarez to leave the administration following an accusation of rape. This episode is another example of the administration failing to document events relating to Mr. Alvarez’s separation from State government, leaving the Committee to wrestle with which contradictory version, presented under oath, is correct—Mr. Cammarano’s or Mr. Alvarez’s.

## **6. Did Mr. Platkin Offer to Provide Mr. Alvarez Assistance in Securing Another Position?**

Mr. Alvarez submitted a sworn statement to the Department of Labor on December 6, 2018 in support of his appeal from the denial of unemployment benefits stating:

[I]n June [2018], I requested additional time and assistance in finding a new job before resigning. Both the Governor's Office and the NJ Schools Development Authority agreed with that request.

(SDA0038) Mr. Alvarez also testified under oath that Mr. Platkin specifically offered to provide assistance to Mr. Alvarez in securing new employment in exchange for Mr. Alvarez's promise to leave his position at the SDA. (March 12, 2019 Tr. at 14, 92-95) On the other hand, Mr. Platkin categorically denied providing any promise of assistance: "I don't recall anything that would lead [Mr. Alvarez] to believe" that Mr. Platkin would provide Mr. Alvarez with assistance securing a new job. (Jan. 18, 2019 Tr. at 27)

The conflict over whether Mr. Platkin offered to provide Mr. Alvarez assistance in securing another position, potentially within State government, is particularly troubling to the committee for several reasons. Most significantly, after the administration determined that it was "untenable" for Mr. Alvarez to retain his position as chief of staff at the SDA based on Ms. Brennan's

allegation of sexual assault (March 12, 2019 Tr. at 49), Mr. Alvarez should not have been considered for any job in State government, including at Rutgers, absent full disclosure and a full investigation of the sexual assault allegation. Nevertheless, Mr. Platkin and Mr. Cammarano at least inquired whether an opportunity existed at Rutgers, apparently without ever disclosing Ms. Brennan's allegation to Rutgers officials. (Jan. 18, 2019 Tr. at 145, 148; RUTGERS001-003)

Separately, the existence of such a stark contradiction involving two principal witnesses over whether Mr. Platkin offered to provide assistance to Mr. Alvarez makes it difficult to accept that the contradiction was merely the result of an innocent difference in recollections. Mr. Platkin denied, under oath, doing "anything that would lead [Mr. Alvarez] to believe" that he would offer assistance (Jan. 18, 2019 Tr. at 27), but his actions are inconsistent with his assertion that he never offered Mr. Alvarez assistance in obtaining new employment.

## **7. Did Mr. Alvarez Resign, or Was He Terminated?**

The confusion and uncertainty over who hired Mr. Alvarez is well documented in the record. There is also uncertainty concerning whether Mr.

Alvarez voluntarily left the SDA or whether he was ordered to do so once the administration became aware of a forthcoming Wall Street Journal article.

Lizzette Delgado Polanco, CEO of the SDA, testified that on October 2, 2018, Mr. Alvarez came to her office, explained that Ms. Brennan had accused him of sexual assault, denied Ms. Brennan's accusation, and told her that the Wall Street Journal was preparing to run a story concerning the accusation. Ms. Delgado Polanco testified that, without even requesting it, Mr. Alvarez voluntarily handed her a letter of resignation. (Jan. 8, 2019 Tr. at 262-63)

Mr. Alvarez provided testimony completely contrary to Ms. Delgado Polanco's testimony on this issue. Mr. Alvarez testified that on October 2, 2018, after he received a call from the Wall Street Journal concerning Ms. Brennan's allegation, he attempted, unsuccessfully, to contact Mr. Platkin and Mr. Cammarano. (March 12, 2019 Tr. at 17) Mr. Alvarez claimed that he then went to Ms. Delgado Polanco's office to explain the situation concerning the Wall Street Journal and Ms. Brennan's accusation. (March 12, 2019 Tr. at 17-18) According to Mr. Alvarez's testimony, Ms. Delgado Polanco promptly called Mr. Cammarano, who instructed her that Mr. Alvarez had to resign immediately and that Mr. Alvarez should fax his resignation letter to the Governor's Office as proof. (March 12, 2019 Tr. at 18) Mr. Alvarez offered a

similar version of events in his sworn statement in support of his appeal for unemployment benefits. (SDA0038) Mr. Alvarez specifically testified before the committee that Ms. Delgado Polanco's testimony regarding voluntarily submitting his resignation letter on October 2, 2018 was not accurate. (March 12, 2019 Tr. at 18) For her part, Ms. Delgado Polanco testified that the version of events contained in Mr. Alvarez's unemployment appeal was not accurate. (Jan. 8, 2019 Tr. at 287-88)

Once again, the existence of such differing recollections regarding what transpired in a specific meeting raises concerns about the candor and credibility of at least one of the witnesses. This is not a situation in which a witness may have misunderstood or misheard a conversation. Mr. Alvarez and Ms. Delgado-Polanco have diametrically opposed versions of what took place during a meeting which should have been memorable to both, since it is not every day that a high-ranking employee approaches a superior to discuss a potential Wall Street Journal article involving an alleged sexual assault. Like the conflict between Mr. Lozano and Mr. Alvarez over whether Mr. Lozano discussed Mr. Alvarez's salary at the SDA, or the conflict as to whether Mr. Platkin offered to provide assistance to Mr. Alvarez, this is yet another instance where the conflicting testimony cannot be reconciled.

## **8. Who Hired Mr. Alvarez?**

The Factual Background in this Report discusses at length the incredible testimony of Mr. Cammarano, Mr. Platkin, and Mr. Lozano about who hired Mr. Alvarez. For the reasons discussed earlier in this Report, we have concluded on the basis of the documentary evidence, as well as the testimony of Mr. McKenna, Ms. Haynes, and Mr. Alvarez, that Mr. Cammarano and Mr. Lozano were the decision-makers as to the hiring of Mr. Alvarez.

Aside from the refusal by the people directly involved in the decision to hire Mr. Alvarez to acknowledge their role in the process, the committee is also troubled by the refusal of any witness to even admit knowledge about who made the decision. Not only did Mr. Cammarano and Mr. Lozano deny hiring Mr. Alvarez, they claimed that they were unaware of who did. (Feb. 5, 2019 Tr. at 42; Jan. 8, 2019 Tr. at 173-75) And Mr. Platkin (who does not appear to have been directly involved in Mr. Alvarez's hiring) disclaimed any knowledge of who hired Mr. Alvarez even up to the time of the hearing and told us that his knowledge was limited to "the press reports -- what's been reported." (Jan. 18, 2019 Tr. at 12-13)

In view of the gravity of this matter, it is incomprehensible that the administration could not ascertain who hired Mr. Alvarez, if it wanted to. The

professed lack of knowledge appears to have been purposeful and not inadvertent. The administration should be embarrassed that, despite the Legislature conducting extensive hearings and expending substantial time and resources, no one from the administration will admit to hiring Mr. Alvarez or even knowing who did.

**9. Should Mr. Platkin Have Recused Himself from Any Involvement in the Administration's Response to Ms. Brennan's Allegation After He Informed Heather Taylor of the Matter?**

The Wall Street Journal's October 14, 2018 article concerning Ms. Brennan's sexual assault allegation against Mr. Alvarez cited a senior administration official as stating that "Mr. Platkin referred the matter to the chief ethics officer in the governor's office [Heather Taylor] and recused himself from the investigation because he knew both Ms. Brennan and Mr. Alvarez." Kate King, *A Sexual-Assault Accusation in New Jersey Spotlights a National Dilemma*, Wall Street Journal, Oct. 14, 2018. However, Mr. Platkin testified that he only "stepped aside from the EEO investigation" out of "an abundance of caution" (Jan. 18, 2019 Tr. at 85-86, 100), and never formally recused himself from the EEO investigation or any other aspect of the administration's response to Ms. Brennan's sexual assault allegation (Jan. 18, 2019 Tr. at 68-69). He testified that he told Ms. Taylor he should not participate

in any EEO investigation concerning Ms. Brennan's complaint because he "knew both the alleged victim and the alleged assailant" and "wanted to ensure that the process was handled fairly and impartially." (Jan. 18, 2019 Tr. at 6) He further testified that he did not formally recuse himself because Ms. Taylor "had the full understanding of any potential conflicts, and [he] was never informed that [he] had an ongoing recusal." (Jan. 18, 2019 Tr. at 69)

Contrary to Mr. Platkin's testimony, it is not at all clear that Ms. Taylor "had the full understanding of any potential conflicts." (Jan. 18, 2019 Tr. at 69) Ms. Taylor testified that on March 22, 2018 when Mr. Platkin reported Ms. Brennan's complaint against Mr. Alvarez, Mr. Platkin "indicated he had a personal relationship with both or that he knew both of the people." (Jan. 10, 2019 Tr. at 184) This is largely consistent with Mr. Platkin's testimony. However, Ms. Taylor further testified that she could not recall if Mr. Platkin told her that he thought he had an actual conflict (Jan. 10, 2019 Tr. at 187), but her handwritten notes from that meeting state that Mr. Platkin was "conflicted" because he had a personal relationship with both Ms. Brennan and Mr. Alvarez. (G00000287)

Ms. Taylor's notes do not contain any notation concerning Mr. Platkin's status as a potential witness to the alleged sexual assault. (G00000287) Ms.

Taylor also did not testify as to being told by Mr. Platkin that he was a potential fact witness. However, there can be no question that Mr. Platkin was a potential fact witness given that he attended the going away party in April 2017 with Ms. Brennan, Mr. Alvarez, and others on the night of the alleged sexual assault. Mr. Platkin's status as a potential witness is confirmed by the fact that the Middlesex County Prosecutor's Office interviewed him on November 13, 2018. The notes from Mr. Platkin's interview with the law firm of Sills Cummis & Gross P.C. (during its investigation that led to the Verniero Report) reflect that he may have told Ms. Taylor that he was at the party and a potential witness (Sills Cummis & Gross P.C. Notes of Nov. 9, 2018 Interview of M. Platkin at 4), but he did not testify under oath before our committee that he shared this information with Ms. Taylor.

Mr. Platkin also has been inconsistent in how he describes his relationship with Mr. Alvarez. Mr. Platkin testified to our committee that he was "[n]ot really friends" with Mr. Alvarez (Jan. 18, 2019 Tr. at 82), but told the law firm of Sills Cummis & Gross P.C. on November 9, 2018 that he was "definitely professional friends" with Mr. Alvarez. (Sills Cummis & Gross P.C. Notes of Nov. 9, 2018 Interview of M. Platkin at 2)

Mr. Platkin's personal relationship with both Ms. Brennan and Mr. Alvarez and personal involvement in the matter creates an appearance that Mr. Platkin could not fairly and impartially discharge his duties with respect to Ms. Brennan's complaint against Mr. Alvarez. For example:

- Mr. Platkin's failure to follow the recommendation from the Attorney General's Office that the campaign conduct an investigation into Ms. Brennan's allegation against Mr. Alvarez may have been influenced by, or at least created the appearance that he was influenced by, his status as a potential fact witness and his personal relationship with Mr. Alvarez.
- Mr. Platkin's failure to ensure Mr. Alvarez's timely compliance with the administration's apparent directive to leave State employment in March 2018, and again in June 2018, may have been influenced by, or at least created the appearance that he was influenced by, his personal relationship with Mr. Alvarez.
- Mr. Platkin's request that Ms. Taylor call Ms. Brennan in April 2018—as opposed to Mr. Platkin himself—to advise her that the Attorney General's Office had concluded it lacked jurisdiction to investigate Ms. Brennan's complaint may have been influenced

by, or at least created the appearance that he was influenced by, his personal relationship with Ms. Brennan.

- Mr. Platkin’s unusual request to Charles McKenna in June 2018 that Mr. McKenna not tell Mr. Alvarez that Mr. Platkin had issued the directive for Mr. Alvarez to leave State employment may have been influenced by, or at least created the appearance that he was influenced by, his status as a potential fact witness and his personal relationship with Mr. Alvarez.
- The actions taken by Mr. Platkin relative to Mr. Alvarez’s efforts to obtain a job at Rutgers may have been influenced by, or at least created the appearance that he was influenced by, his personal relationship with Mr. Alvarez.
- The text message exchange between Mr. Platkin and Mr. McKenna on June 7, 2018—in which Mr. McKenna stated that Mr. Alvarez “really is a decent guy” and Mr. Platkin responded “Agreed” (MCK006)—provides further evidence that Mr. Platkin’s ability to make fair and impartial decisions concerning Mr. Alvarez may have been hampered by, or at least created the

appearance that he was hampered by, his personal relationship with Mr. Alvarez.

Mr. Platkin's testimony that he did not recuse himself because Ms. Taylor "had the full understanding of any potential conflicts, and [he] was never informed that [he] had an ongoing recusal" duty (Jan. 18, 2019 Tr. at 69) is troubling, because the evidence indicates that Ms. Taylor did not have a full understanding of the potential conflicts. To the contrary, the testimonial evidence suggests that Mr. Platkin's personal involvement in the matter as a potential fact witness and his personal relationships with Ms. Brennan and Mr. Alvarez may have caused him to try to handle the matter from the shadows by trying to avoid direct contact with either party as much as possible.

It may well be that every action Mr. Platkin took in this matter was motivated solely by his desire to do the right thing for all concerned. But given his personal relationships and his involvement as a fact witness, common sense dictates that he should have recused himself because of the appearance of a conflict, or at least obtained a formal opinion from Heather Taylor on the matter.

## **FUNDAMENTAL MISUNDERSTANDINGS OF THE LAW**

From the transition to the termination of Mr. Alvarez, important actions and inactions in response to Ms. Brennan's allegation were based upon fundamental misunderstandings of the law. The errors of law were demonstrated by the expert testimony of Professor Charles Sullivan, a nationally recognized expert in employment law, author of the country's leading case book on employment law, and Professor of Law and Senior Associate Dean at Seton Hall University School of Law.

1. **An investigation should have been conducted before hiring Mr. Alvarez.** Transition counsel decided against conducting an investigation because "employers don't get bonus points for doing investigations." (Jan. 25, 2019 Tr. at 50) Quite to the contrary, employers in New Jersey who fail to investigate a discrimination or harassment claim that may taint the work environment face potential liability under the New Jersey Law Against Discrimination ("LAD"). As Professor Sullivan confirmed, an employer should investigate the allegation before hiring the accused rapist:

I believe, as a matter of how you should run your business, or your employment, you should make sure that you have sufficient information to make a judgment as to whether to go forward or not.

(February 26, 2019 Tr. at 5) The fact that the identity of the accused is not known should not deter investigation; nor should the fact that the accused has not been criminally charged. (Feb. 26, 2019 Tr. at 5-6) Professor Sullivan also confirmed that hiring Mr. Alvarez without an investigation could have created liability for the State in two ways. First, if he had sufficient contact with the accuser to contaminate the workplace, that would create a hostile work environment liability under the LAD. Second, with respect to other women in the workplace who might be subject to similar conduct, there would be a negligent hiring tort claim available. (Feb. 26, 2019 Tr. at 6)

2. **There was no legal impediment to informing individuals with a need to know about the sexual assault allegation.** Multiple witnesses testified that they were told or understood that they were prohibited by law or policy from disclosing Ms. Brennan’s allegations against Mr. Alvarez. That is incorrect. The New Jersey State Policy Prohibiting Discrimination in the Workplace (“Policy”) does provide for confidentiality while complaints are being investigated “to the extent practical and appropriate under the circumstances.” (Policy at § IX) However, it also provides that it may be necessary to discuss the complaint with “the person(s) against whom the

complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter.” (*Id.*)

As made clear by the testimony of Professor Charles Sullivan, when a high-level applicant or employee is accused of rape, multiple individuals have a “legitimate need to know.” “[T]here are people within any organization who have a need to know this kind of conduct is going on; and if there is such a need to know, confidentiality doesn’t bar that.” (Feb. 26, 2019 Tr. at 10) That often will include the supervisors of both the accuser and the accused, and when the accused is a high-level employee, that includes the head of the organization. (Feb. 26, 2019 Tr. at 13) There was no legal bar to informing the Governor (*Id.*) and, as the leader of the organization, he should have been informed.

3. **The Office of the Attorney General was wrong to summarily dismiss Ms. Brennan’s internal complaint on the ground that it lacked jurisdiction.** As Professor Sullivan testified, “if there’s a plausible opportunity for the two to come into contact, I believe the obligation of the employer is to investigate the accusation. And that’s entirely apart from whether a negligent hiring claim might later be brought by somebody who is not the accuser.” (Feb. 26, 2019 Tr. at 7) There should have been an investigation before decisions

were made about hiring Mr. Alvarez and what to do about Mr. Alvarez and Ms. Brennan's complaint. (*Id.*) The State would be absolutely liable if it failed to "take reasonable efforts to achieve an appropriate work environment; which means that if there is reason to think that a work environment, for a particular woman, is contaminated, it has to take reasonable steps to resolve the problem." (Feb. 26, 2019 Tr. at 8) According to Professor Sullivan, the decision to reject Ms. Brennan's claim because the alleged assault occurred before the two were employees was just wrong:

The question is whether there is a current contaminated work environment. If a rape occurred before the employment, but the rapist and victim are put in sufficiently close contact, that's a question that could be debated. If they are put in sufficiently close contact, it's almost impossible to imagine that wouldn't contaminate the [woman's] work environment.

And it doesn't matter whether the conduct occurred previously or on the job. Her environment is equally contaminated, I believe, either way.

(Feb. 26, 2019 Tr. at 9)

4. **There was no legal impediment to denying employment to Mr. Alvarez because of the sexual assault allegation.** Transition counsel testified that he was not asked whether Mr. Alvarez could be denied employment, but if he had been, he would have advised "that not hiring Mr. Alvarez based solely

on the allegation [of sexual assault] could have been a violation of State or Federal law.” (Jan. 25, 2019 Tr. at 55) That is incorrect. Professor Sullivan was asked “First, is there any legal bar to refusing to hire the applicant, based upon the rape allegation?” He replied, “No. Just as there would be no legal bar to refusing to hire someone who is accused of embezzling.” (Feb. 26, 2019 Tr. at 5)

5. **The transition utilized overly broad non-disclosure agreements.** According to the testimony, certain members of the transition team were required to sign non-disclosure agreements that prohibited disclosure of anything learned or occurring during their work on the transition, with no stated exceptions. To the extent those agreements did not specify exceptions for reporting to the Division on Civil Rights or other governmental agencies, they were contrary to public policy and unenforceable. (Feb. 26, 2019 Tr. at 11) Importantly, such provisions have a chilling effect on individuals who have experienced discrimination or harassment and would have reported violations but for the non-disclosure agreements. That interferes with the exercise of their rights under the LAD, the Conscientious Employee Protection Act, and other statutes designed for the protection of workers. That is particularly ironic in view of the administration’s support shortly thereafter

of legislation broadly prohibiting non-disclosure agreements with regard to discrimination claims.

## **FINDINGS**

1. **Upon learning of the sexual assault allegation made against Mr. Alvarez by someone working on a transition advisory committee, transition leadership should have immediately conducted a thorough and rigorous investigation into the allegation.**

A. Peter Cammarano and senior transition counsel knew from their discussions with Justin Braz on December 1, 2017 that the accuser had reported her allegation of sexual assault to a prosecutor's office and should have asked Mr. Braz to speak with the accuser to encourage her to come forward and explain in detail what happened. Ms. Brennan testified that she was surprised that the transition did not seek to follow up with her in any way. It is highly likely that she would have come forward if she had been encouraged to do so by transition leadership.

B. Transition leadership should have immediately interviewed Mr. Alvarez to further understand the facts and learn the name of the accuser. They also should have attempted to ascertain the name of the law

enforcement agency that investigated the matter and declined to pursue criminal charges.

C. Transition leadership should have immediately advised the Governor-elect about the allegation of sexual assault against Mr. Alvarez. The Governor-elect had the right to be involved in discussions about whether to perform an investigation, either by the campaign or the transition. The Governor-elect also had the right to be involved in discussions as to whether Mr. Alvarez should have continued on the transition team (or placed on a leave of absence) and/or be considered for a job in the administration.

D. Given the magnitude of the issues presented, the legal advice given by transition counsel regarding the serious issue of whether the allegation of sexual assault could be shared with the Governor-elect should have been memorialized in a contemporaneous writing, with reference to the legal basis of the advice, as well as information about the dates, times, and persons provided with the legal advice.

E. The prophylactic steps against retaliation allegedly instituted by transition counsel were ineffective for at least two reasons: (i) Lynn Haynes has no recollection of being told to change Mr. Alvarez's job

responsibilities; and (ii) Mr. Alvarez already lacked the authority to make hiring decisions.

F. The failure to conduct an in-depth investigation into Ms. Brennan's allegation did a disservice to both Ms. Brennan and Mr. Alvarez. From the first time in December 2017 when Ms. Brennan sought to advise the transition that Mr. Alvarez might be arrested, to her attempt at the Inaugural Ball to advise Parimal Garg of "serious wrongdoing by a senior Administration official," to her conversations with Mr. Platkin and Mr. Garg in March 2018, to her attempt in June 2018 to contact the Governor and the First Lady, Ms. Brennan wanted somebody to listen to her and hold Mr. Alvarez accountable for his alleged actions. Unfortunately, no one demonstrated a willingness to follow up with Ms. Brennan or took appropriate action to thoroughly review her complaint.

As to Mr. Alvarez, after the transition committee looked away from the allegation of sexual assault and hired him in January 2018 without any meaningful attempt to investigate the truth of the complaint, it pivoted 180-degrees in March 2018 and June 2018 when it decided to terminate him on the basis of the allegation. In some sense, this was the worst of all worlds for Mr. Alvarez. Indeed, after the Wall Street Journal

published the allegation and the results of its investigation in October 2018, Governor Murphy issued a statement which, in effect, said that his administration had done everything right, but that Mr. Alvarez should not have been hired. If transition leadership had performed a rigorous investigation before offering him a job and had concluded that Ms. Brennan's allegation was baseless, then perhaps Mr. Alvarez would not have been summarily dismissed when it appeared the allegation would become public.

Our report is not advocating for a *per se* rule whereby the very allegation of sexual assault is a bar to hiring. To the contrary, we are advocating that a person accused of an uncharged sexual assault should not be hired without a thorough and rigorous investigation into the allegation and then a balancing of the equities by the hiring authority, with consideration given to both the accuser and the accused, as well as the workplace atmosphere.

2. **Peter Cammarano and Jose Lozano made the decision to hire Mr. Alvarez as chief of staff at the SDA.**

A. Mr. Alvarez did not hire himself as chief of staff at the SDA; there had to be a decision-maker.

B. The evidence, including Lynn Haynes' testimony that Mr. Alvarez told her "They're sending me to the SDA," leads us to conclude that there was more than one decision-maker as to Mr. Alvarez's hiring. Mr. Cammarano was the ultimate decision-maker. Mr. Lozano concurred in the decision and implemented it.

C. Mr. Cammarano and Mr. Lozano failed to take responsibility for Mr. Alvarez's hiring. Their refusal to accept responsibility for Mr. Alvarez's hiring and their assertion that they have no knowledge of who did is insulting to the committee and the Legislature as a whole.

D. Although there is no evidence indicating that Mr. Platkin was involved in the hiring of Mr. Alvarez, his testimony that he has no personal knowledge whatsoever about who did and that what he knows about the issue is limited to what he has read in "press reports" strains credulity.

E. We do not agree with the conclusion in the Verniero Report (commissioned by the Murphy administration) that "Mr. Alvarez's placement at the SDA was a foregone conclusion based on his affiliation with the Murphy campaign and the transition office, and due to the fact that he was well known and presumably viewed positively within the

Murphy hiring circle.” (Verniero Report at 10 (emphasis added)) A hiring into a government agency does not have the inevitability similar to the law of gravity. People are hired by a decision-maker, not by an amorphous “foregone conclusion.” It may have been highly likely that Mr. Alvarez would get a job in the Murphy administration, but it did not have to be this job, with this agency, with this salary; these were decisions made by Mr. Cammarano and Mr. Lozano. The suggestion that Mr. Alvarez’s hiring at the SDA was a “foregone conclusion” is spurious.

F. There should have been a written record as to who made the decision to hire Mr. Alvarez as chief of staff at the SDA and why the allegation of sexual assault was disregarded.

G. Mr. Alvarez’s new boss, Charles McKenna, should have been advised of the allegation in January 2018 before the decision to hire Mr. Alvarez was made. Mr. McKenna testified that the information would have been relevant to his decision as to whether Mr. Alvarez should serve as his chief of staff.

**3. Peter Cammarano and Matthew Platkin mishandled their joint decision in March 2018 to direct Mr. Alvarez to separate himself from State employment.**

A. Mr. Alvarez was an employee at will. There was no legal impediment preventing Mr. Cammarano, Mr. Platkin, or Mr. McKenna from terminating him or directing him to leave State employment in March 2018 or in June 2018.

B. Mr. Cammarano and Mr. Platkin should have also memorialized their joint decision to direct Mr. Alvarez to leave State employment in a contemporaneous writing provided to Mr. Alvarez and filed with his personnel records. The writing should have included the specific directions given to Mr. Alvarez on March 26, 2018, as well as a timetable for his departure from State government. The factual dispute between Mr. Cammarano and Mr. Alvarez about the instructions provided to him on March 26, 2018 could have been easily resolved if there had been a writing.

C. The unemployment claim filed by Mr. Alvarez where he contends he was first directed to leave State government in June 2018 is consistent with his testimony about the conversation he had with Mr.

Cammarano on March 26, 2018. The SDA's opposition to the unemployment claim on the ground that Mr. Alvarez left employment voluntarily is contrary to the testimony of Messrs. Cammarano, Platkin, McKenna, and Alvarez. Whether it was done intentionally or unwittingly because of the lack of written records, the SDA's opposition appears to contain false information.

D. Once the decision was made by Mr. Platkin and Mr. Cammarano to terminate Mr. Alvarez, Mr. Cammarano should have followed up with Mr. Alvarez on a periodic basis to check his progress on securing new employment outside of State government. His failure to follow up demonstrates a low level of interest by the administration in dealing with this issue.

4. **The administration mishandled its response to Ms. Brennan's March 2018 complaint to Matthew Platkin.**

A. The State has established robust Procedures for Internal Complaints Alleging Discrimination in the Workplace (the "Procedures"). They were not followed. Although Mr. Platkin acted promptly in reporting the matter to Heather Taylor for EEO processing, the Attorney General's Office summarily rejected the verbal complaint

based on the erroneous conclusion that there was no jurisdiction without following any of the steps set forth in the Procedures. According to Ms. Lieberman and Ms. Taylor, the complaint was rejected for lack of jurisdiction because Mr. Alvarez and Ms. Brennan were not State employees at the time of the alleged assault and the alleged assault did not occur on State property. Apparently no one in the Attorney General's Office considered the obvious basis of jurisdiction: as chiefs of staff at different authorities, Ms. Brennan and Mr. Alvarez were likely to come into contact with one another during the course of their employment, potentially leading to a hostile work environment in violation of the State Policy Prohibiting Discrimination in the Workplace and the Law Against Discrimination. During her testimony, Ms. Lieberman conceded that "with the benefit of hindsight, that inquiry might have been one to make . . . ." (Feb. 5, 2019 Tr. at 171)

Consistent with existing State policy, the charge should have been docketed; a written summary of the oral charge should have been prepared or Ms. Brennan should have been encouraged to complete a written Discrimination Complaint Processing Form; an acknowledgment of the charge should have been sent to Ms. Brennan; Ms. Brennan and Mr.

Alvarez should have been interviewed and an investigatory report should have been prepared. If that had been done, the Attorney General's Office would have understood that Ms. Brennan had accused Mr. Alvarez of raping her, not sexually harassing her. To summarily reject an internal complaint of sexual assault, with no written record and no investigation, was unfair to Ms. Brennan, Mr. Alvarez, and the State.

B. There was no follow up by the Attorney General's Office about their recommendation to the administration that an attorney for the campaign conduct an investigation.

C. As demonstrated by the testimony of Mr. McKenna, Ms. Taylor, Mr. Platkin, and Mr. Alvarez, the administration appeared more concerned with avoiding negative publicity than following proper protocols and getting to the truth of the matter.

5. **The administration mishandled its response to Ms. Brennan's June 1, 2018 email to Governor Murphy.**

A. When Mr. Platkin made the decision in June 2018 to direct Mr. Alvarez to leave the SDA, he should have provided a written memorandum to Mr. Alvarez that set forth both the instructions given to

Mr. Alvarez and a timetable for his departure and made that document a part of Mr. Alvarez' personnel records.

B. The Governor's chief counsel, Mr. Platkin, should not have authorized counsel for the campaign, Jonathan Berkon, to advise Ms. Brennan that Mr. Alvarez would be leaving State employment unless they took appropriate steps to ensure that it happened.

6. **Peter Cammarano should have advised the new CEO of the SDA, Lizette Delgado Polanco, that the administration had instructed Mr. Alvarez to leave State employment and the SDA should not have given Mr. Alvarez a \$30,000 raise in August 2018.**

A. It is embarrassing to the SDA and State government that an employee who was supposedly told to separate himself from State government in March 2018 because of a sexual assault allegation was given a \$30,000 pay raise in August 2018.

B. Lizette Delgado Polanco should have been advised before she became CEO of the SDA that her chief of staff had been the subject of a rape investigation by someone who was also working in State government. Such information would have informed her allocation of his

job responsibilities, as well as how much of a pay raise, if any, he would receive and how much longer he would stay on the job.

## **CONCLUSION AND RECOMMENDED CHANGES TO LAWS AND POLICIES**

The errors outlined in the preceding sections are, for the most part, attributable not to the inadequacy of existing policies, but rather, failures to adhere to policies; asserted misunderstandings of policies that appear clear on their face; an apparent lack of urgency in addressing Ms. Brennan's concerns; and a lack of common sense. In other words, the system did not fail Ms. Brennan; the people who were entrusted with properly and responsibly handling Ms. Brennan's complaint failed her at every step of the way.

Nonetheless, there are several legislative, regulatory, and policy changes that will minimize the likelihood of similar failures in the future.

1. **The Gubernatorial Transition Act should be amended to make State EEO laws and policy applicable to all individuals working on the transition.** Transition employees should be treated as unclassified Civil Service employees. Transition employees are paid with State funds. As such, they should be subject to the same standards of conduct that are applicable to

all regular State employees. State funds should not be expended to pay individuals who are non-compliant with the State's strong anti-discrimination policies. Moreover, treating transition employees as unclassified Civil Service employees would provide some regularity in the hiring process and ensure compliance with some record-keeping protocols.

2. Gubernatorial transitions should be provided a designated Civil Service-based human resources professional to serve as the transition's EEO officer.

3. In light of the testimony that the Murphy administration's transition team did not have adequate resources to investigate a candidate accused of sexual assault, gubernatorial transitions should be provided adequate resources to conduct four-way investigative reports on sub-cabinet positions in extraordinary circumstances.

4. At the conclusion of the hiring process and consistent with the Opportunity to Compete Act, applicants and conditional hires should be asked to complete a written questionnaire inquiring as to whether they have been the subject of charges or investigations involving criminal conduct, including sex-related crimes.

5. **The enabling statute for the SDA, N.J.S.A. 52:18A-237, should be amended to provide Civil Service oversight of personnel matters and to make employees of the SDA subject to Civil Service regulation.** The professionals at Civil Service provide a certain level of consistency with regard to State employment. With regard to unclassified Civil Service employees, they review qualifications against requirements for the positions in question before new hires subject to Civil Service oversight are finalized. However, under the present structure, Civil Service has no responsibility at all for employees of the SDA. The SDA human resources functions are thus free from supervision and accountability from outside of the Authority. Civil Service oversight of SDA employees would provide regularity in the hiring and human resources functions and ensure compliance with record-keeping protocols.

6. **Record-keeping requirements with regard to hiring of unclassified employees, and personnel actions with regard to such employees once hired, should be enhanced and standardized.** Under current practice, Civil Service has minimal involvement in the hiring of unclassified employees into State Departments. It has no involvement with regard to employees of the SDA. In this instance, the lack of oversight and standardization resulted in a complete failure to meet human resources

standards. At a minimum, personnel transaction forms should be completed and maintained for every hire and every subsequent change in employment status, such as promotion, salary increase, position change, etc. The personnel transaction forms should include all pertinent information, such as job title, direct report, salary, date of transaction, and individual authorizing the hire or change of status.

7. **The New Jersey State Policy Prohibiting Discrimination in the Workplace, N.J.A.C. 4A:7-3.1 (the “Policy”), should be amended.**

Although the confidentiality provisions of the Policy are clear and straightforward, their misapplication and misinterpretation by lawyers and high-level employees in this matter suggest that even further specification is in order. The historical purposes of policies requiring confidentiality of internal complaints of harassment and discrimination were (1) protecting victims by giving them the assurance that they could report their concerns without fear of becoming the subject of office gossip; and (2) protecting the integrity of internal investigations of complaints. The purpose of confidentiality was never to muzzle the victims of discrimination or harassment or to prevent disclosures to executives who should be involved in decision-making with regard to the complaint. The Policy should be amended to make clear that employees

complaining of harassment or discrimination are NOT prohibited from disclosing their complaints as they choose, whether it be to other governmental agencies such as the Division on Civil Rights, or to other individuals or entities. The provision of the current policy permitting disclosure to individuals with “a legitimate need to know about the matter” should be amended to provide additional clarity.

8. **The New Jersey State Procedures for Internal Complaints Alleging Discrimination in the Workplace, N.J.A.C. 4A:7-3.2 (the “Procedures”), should be amended.**

- a. A Hotline for complaints of discrimination and harassment, including anonymous complaints, should be established. As the New Jersey Supreme Court has made clear, it is not enough for an employer to have an EEO policy and complaint procedure on paper only, and efforts should be made to ensure that employees are aware of their rights and to facilitate reporting. The ease of reporting through a Hotline and the availability of anonymous reporting are best practices. New Jersey has been a national leader in the battle to eradicate the cancer of discrimination, through the Law Against Discrimination, through the work of the Division on

Civil Rights, and through decisions of the New Jersey Supreme Court broadly interpreting the LAD. The State similarly should be at the forefront with regard to the procedures and remedies it affords its own employees.

b. Although the current Procedures are clear in their requirements of written records and notifications from intake of a complaint (“Each State Agency shall maintain a written record of the discrimination/harassment complaints received.”) to final determination, no such records from the office of the Attorney General were available in this matter. Instead, the only record of Ms. Brennan’s complaint was the handwritten notes of Heather Taylor. To avoid similar failures of process in the future the procedures should be amended to make absolutely clear that *all* complaints received—regardless of facial merit—should be reflected in written records that comply with the current requirements of the Procedures.

c. The current Procedures provide that whether an investigation is conducted is at the “EEO/AA Officer’s discretion.” The Procedures should be amended to require that *every* complaint

received be investigated to the extent of interviewing the complaining party to determine the nature and scope of the complaint.

9. All individuals identified in the Procedures as people to whom complaints may be made should receive higher level training by the New Jersey Attorney General's Advocacy Institute or other appropriate organization. Such training would be aimed at minimizing the risk that employee victims are inadequately served due to a lack of knowledge on the part of those responsible for receiving complaints.

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Since enactment of the Law Against Discrimination in 1945, New Jersey has been at the forefront of the fight against employment discrimination and the protection of employee rights. The New Jersey Legislature, the New Jersey Supreme Court, and the Division on Civil Rights are national leaders in this area. The mishandling of Ms. Brennan's complaint as set forth in this Report is a stain on that reputation and compromises public trust in our institutions. The recommendations set forth herein, including enhancements to already

robust policies and procedures, are designed to prevent a recurrence and afford all State employees the protections they deserve and are intended to have.